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1987·ANNUAL·REPORT

PART I: 1987 Judicial Council Report to the Governor and the Legislature

PART II: Annual Report of the Administrative Office of the California Courts

JUDICIAL·COUNCIL OF·CALIFORNIA

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INTRODUCTION

The Judicial Council of California

The Judicial Council of California is required by the Constitution to survey the condition of business in state courts and to report and make appropriate recommendations to the Governor and the Legislature. (Cal. Const., art. VI, § 6.) This 1987 Judicial Council Report contains the council's report to the 1987–88 Regular Session of the Legislature.

The Annual Report of the Administrative Office of the Courts, the staff agency serving the council, is also included, continuing the practice that started in the Nineteenth Biennial Report. The Annual Report contains summaries of the activities of the Judicial Council and its staff during 1986. It also includes detailed statistical data on the volume of business in all the courts for the fiscal year ending June 30, 1986.

* * *

The 1987 Annual Report was produced under the general editorial supervision of Ms. Lynn Holton, Public Information Officer, Administrative Office of the Courts.

Constitutional and Statutory Provisions for the Judicial Council

The Judicial Council was originally provided for in section 1a of article VI of the State Constitution adopted November 2, 1926. This section was amended November 8, 1960. On November 8, 1966, a revised article VI was adopted and the provisions of former section 1a were amended and renumbered as section 6, and further revised November 5, 1974, to read:

> Sec. 6. The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, 3 judges of municipal courts, and 2 judges of justice courts, each appointed by the Chief Justice for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.
>
> Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.
>
> The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or Chief Justice, other than adopting rules of court administration, practice and procedure.
>
> To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute.
>
> The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.
>
> Judges shall report to the Judicial Council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Other constitutional provisions dealing with the Judicial Council or the Chief Justice are found in article VI, sections 15 and 18(f). There are also a number of statutory provisions referring to the Judicial Council.*

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* Statutory provisions are found in: Bus. & Prof. Code §§ 465, 6038, 6079, 6180.1, 7085.4; Civ. Code §§ 70, 246, 3259, 4001, 4357, 4359, 4363, 4363.1, 4363.2, 4450, 4503, 4530, 4550, 4551, 4552, 4556, 4700.1, 4700.2, 4700.3, 4701, 4721, 4724, 4729, 4801.1, 4801.6, 5181, 5182, 5183; Code Civ. Proc. §§ 75, 77, 93, 116, 116.1, 117.1, 117.8, 117.10, 117.18, 117.20, 117.22, 117.41, 117.8, 135, 170, 170.3, 170.6, 170.8, 194.5, 201a, 203, 204.4, 270, 394, 404, 404.3, 404.7, 404.8, 412.20, 417.10, 422.40, 425.12, 429.40, 431.40, 472a, 482.030, 489.230, 516.010, 516.020, 527.6, 543, 575, 575.1, 575.5, 583, 583.410, 583.420, 681.030, 683.160, 693.010, 693.020, 693.030, 693.040, 693.050, 693.060, 700.010, 704.770, 704.790, 706.100, 706.103, 706.108, 706.120, 706.122, 706.126, 706.127, 706.151, 901, 911, 1006.5, 1034, 1034.5, 1038, 1089, 1141.12, 1141.14, 1141.15, 1141.18, 1141.19, 1141.22, 1141.23, 1141.29, 1141.31, 1178, 1258.300, 1710.30, 1745.5, 1823.1, 1823.3, 1823.4, 1823.5, 1823.6, 1823.7, 1833, 1833.1, 2019, 2033.5, 2036.5; Evid. Code §§ 451, 754; Gov. Code §§ 198.25, 1234, 9144, 15424, 19825, 26720.5, 26824, 31680.1, 68070, 68071, 68072, 68090, 68090.2, 68090.25, 68110, 68115, 68116, 68117, 68500, 68500.1, 68500.5, 68501, 68502, 68503, 68503.5, 68504, 68505, 68507, 68508, 68509, 68510, 68511, 68511.2, 68511.3, 68511.5, 68512, 68513, 68513.2, 68513.4, 68514, 68514.2, 68515, 68516, 68517, 68518, 68519, 68519.5, 68520.5, 68521, 68521.5, 68522, 68523, 68525, 68526, 68527, 68528, 68529, 68530, 68531, 68532, 68533, 68534, 68535, 68536, 68540, 68540.5, 68541, 68542.5, 68543, 68543.5, 68545, 68546, 68548, 68551, 68552, 68560, 68561, 68562, 68562.1, 68563, 68564, 68603, 68604, 68605, 68610, 61611, 68612, 68613, 68615, 68701, 68701.5, 68926, 68926.1, 69508, 69752, 69753, 69796, 69801, 69894.3, 69899.5, 70045.2, 70046.3, 70048, 70114, 70129, 71042, 71180.4, 71386, 71601.3, 71610, 71700, 71702, 71703, 71704, 72194.5, 72274, 72450, 72602.14, 72604.5, 72624, 72631, 73105, 73106, 73362.1, 74748, 74903, 75002, 75003, 75028, 75036, 75060.6, 75080, 77202, 77205, 82011, 82048, 87311.5; Ins. Code §12922.1; Pen. Code §§ 190.7, 853.9, 977.2, 1029, 1038, 1050, 1053, 1170, 1170.1, 1170.3, 1170.4, 1170.5, 1170.6, 1191.2, 1213, 1213.5, 1235, 1238.5, 1239, 1240.1, 1241, 1246, 1247k, 1269b, 1269d, 1347, 1468, 1471, 1506, 1507, 3041, 13810, 13825, 13828.1, 13828.2, 13830, 13833, 14003, 14101, 14152, 14153, 14156; Prob. Code §§ 303, 591.4, 591.8, 1232, 1233, 1456, 1464, 1491, 1962, 3084, 3088, 3091, 13200, 13209, 15006, 17101; Rev. & Tax Code § 5161; Veh. Code §§ 23205, 40230, 40610, 40500, 40513, 40522, 40600, 40610, 40618, 40653, 40692; Welf. & Inst. Code §§ 264, 265, 307.4, 656.2, 11475.3.

LETTER OF TRANSMITTAL

To The Honorable George Deukmejian,
Governor of the State of California,
and Members of the Legislature

The 1987 Judicial Council Report is presented pursuant to the provisions of section 6 of article VI of the California Constitution.

January 1, 1987

Hon. Rose Elizabeth Bird,*
Chairperson

Hon. Allen E. Broussard
Hon. Arleigh M. Woods
Hon. Pauline D. Hanson
Hon. Elwood Lui
Hon. Florence Bernstein
Hon. Barnet M. Cooperman
Hon. Leslie C. Nichols
Hon. Mario G. Olmos
Hon. Gerald E. Ragan
Hon. Frances Munoz
Hon. Maxine F. Thomas
Hon. Earl Warren, Jr.
Hon. Brian L. Rix
Hon. Mikio Uchiyama
Hon. Bill Lockyer
Hon. Elihu M. Harris
Mr. David B. Baum
Mr. Joseph H. Cummins
Mr. Kevin W. Midlam
Mr. Robert D. Raven

Mr. Ralph J. Gampell, *Secretary*

* Chief Justice Bird was defeated in the November, 1986 general election, and her last day of office was January 4, 1987. She was succeeded by Chief Justice Malcolm M. Lucas who was confirmed and took the oath of office on February 5, 1987.

The Judicial Council of the State of California[1]

HON. ROSE ELIZABETH BIRD
Chief Justice of California
Chairperson of the Judicial Council
State Building, San Francisco

HON. ALLEN E. BROUSSARD
Associate Justice, Supreme Court
State Building, San Francisco

HON. ARLEIGH M. WOODS
Presiding Justice, Court of Appeal
Second Appellate District, Division Four
Los Angeles

HON. PAULINE D. HANSON[2]
Associate Justice, Court of Appeal
Fifth Appellate District
Fresno

HON. ELWOOD LUI
Associate Justice, Court of Appeal
Second Appellate District, Division Three
Los Angeles

HON. FLORENCE BERNSTEIN
Judge of the Superior Court
Los Angeles County, Los Angeles

HON. BARNET M. COOPERMAN
Judge of the Superior Court
Los Angeles County, Los Angeles

HON. LESLIE C. NICHOLS[3]
Judge of the Superior Court
Santa Clara County, San Jose

HON. MARIO G. OLMOS
Judge of the Superior Court
Fresno County, Fresno

HON. GERALD E. RAGAN
Judge of the Superior Court
San Mateo County, Redwood City

HON. FRANCES MUNOZ
Judge of the Municipal Court
Orange County Harbor Municipal
Court District, Newport Beach

HON. MAXINE F. THOMAS
Judge of the Municipal Court
Los Angeles Municipal Court District
Los Angeles

HON. EARL WARREN, JR.
Judge of the Municipal Court
Sacramento Municipal Court District
Sacramento

HON. BRIAN L. RIX
Judge of the Justice Court
Paradise Justice Court District
Paradise

HON. MIKIO UCHIYAMA
Judge of the Justice Court
Fowler-Caruthers Justice Court District
Fowler

HON. BILL LOCKYER[4]
Senator, 10th District
Alameda

HON. ELIHU M. HARRIS[5]
Assemblyman, 13th District
Oakland

MR. DAVID B. BAUM[6]
Attorney at Law
San Francisco

MR. JOSEPH H. CUMMINS[6]
Attorney at Law
Los Angeles

MR. KEVIN W. MIDLAM[7]
Attorney at Law
San Diego

MR. ROBERT D. RAVEN[7]
Attorney at Law
San Francisco

MR. RALPH J. GAMPELL
Administrative Director of the Courts
and Secretary of the Judicial Council
San Francisco

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[1] Except as otherwise indicated, members were appointed by the Chief Justice on February 1, 1985, for two-year terms expiring January 31, 1987.

[2] Appointed by the Chief Justice on November 8, 1985, vice Hon. Gerald Brown.

[3] Appointed by the Chief Justice on May 10, 1985, vice Hon. Donald B. Constine.

[4] Appointed by the Senate Rules Committee pursuant to article VI, section 6 of the Constitution and Senate Rule 13 of the 1985–86 Regular Session of the Legislature.

[5] Appointed by the Speaker of the Assembly pursuant to article VI, section 6 of the Constitution and subdivision (L) of the Assembly Rule 26 of the 1985–86 Regular Session of the Legislature.

[6] Appointed by the State Bar Board of Governors for a two-year term expiring January 31, 1988.

[7] Appointed by the State Bar Board of Governors for a two-year term expiring January 31, 1987.

Judicial Council Committees

Executive Committee [1]
- Hon. Rose Elizabeth Bird, Chairperson
- Hon. Florence Bernstein
- Hon. Allen E. Broussard
- Hon. Mario G. Olmos
- Hon. Earl Warren, Jr.

Appellate Court Committee [1]
- Hon. Allen E. Broussard, Chairperson
- Hon. Florence Bernstein
- Hon. Pauline D. Hanson
- Hon. Elwood Lui
- Hon. Arleigh M. Woods
- Hon. Elihu M. Harris
- Mr. David B. Baum
- Mr. Robert D. Raven

Court Management Committee [1]
- Hon. Florence Bernstein, Chairperson
- Hon. Allen E. Broussard
- Hon. Barnet M. Cooperman
- Hon. Pauline D. Hanson
- Hon. Mario G. Olmos
- Hon. Gerald E. Ragan
- Hon. Mikio Uchiyama
- Hon. Arleigh M. Woods
- Hon. Elihu M. Harris
- Mr. David B. Baum

Superior Court Committee [1]
- Hon. Mario G. Olmos, Chairperson
- Hon. Barnet M. Cooperman
- Hon. Elwood Lui
- Hon. Frances Munoz
- Hon. Leslie C. Nichols
- Hon. Gerald E. Ragan
- Hon. Brian L. Rix
- Hon. Maxine F. Thomas
- Hon. Earl Warren, Jr.
- Hon. Bill Lockyer
- Mr. Joseph H. Cummins
- Mr. Kevin W. Midlam
- Mr. Robert D. Raven

Municipal and Justice Court Committee [1]
- Hon. Earl Warren, Jr., Chairperson
- Hon. Frances Munoz
- Hon. Leslie C. Nichols
- Hon. Brian L. Rix
- Hon. Maxine F. Thomas
- Hon. Mikio Uchiyama
- Hon. Bill Lockyer
- Mr. Joseph H. Cummins
- Mr. Kevin W. Midlam

Committee on Gender Bias in the Court System [1,2]
- Hon. Elwood Lui, Chairperson
- Hon. Arleigh M. Woods
- Hon. Pauline D. Hanson
- Hon. Florence Bernstein
- Hon. Frances Munoz
- Hon. Mikio Uchiyama
- Mr. Robert D. Raven

Advisory Committee on Legal Forms [3]
- Hon. William H. Lally, Chairperson
- Hon. Madeleine Flier
- Hon. Isabella H. Grant
- Hon. Linda Hodge McLaughlin
- Hon. Elizabeth N. Zumwalt
- Mr. William Acker
- Mr. Richard Bedal
- Mr. Paul F. Cohen
- Mr. G. Brent Gammon
- Ms. Marcia Haber Kamine
- Mr. David S. Krueger
- Mr. Owen Lee Kwong
- Mr. Lee Lawless
- Ms. Alexandra Leichter
- Ms. Deanna S. Myhre
- Mr. Frank Roesch
- Mr. Hal F. Seibert
- Mr. Joseph White

Advisory Committee for a Court of Appeal Procedures Manual

Ms. Eva Goodwin, Chairperson
Mr. James Christiansen
Ms. Janice L. Feinstein
Mr. Jeff Garland
Mr. Jeff Giarde
Mr. Richard Mansfield
Ms. Susan Miner
Ms. Jean Perloff
Ms. Barbara Perry
Ms. Margot Plant
Ms. Maureen Robertson
Mr. Alan Strong
Ms. Marcia Teasdale
Ms. Dolores Watson
Mr. Edward M. Wright

Advisory Committee on the Publication of the Official Reports

Hon. Stanley Mosk, Chairperson
Hon. William Stein
Hon. Leon Thompson
Mr. Ralph J. Gampell
Mr. Richard Jacobs
Mr. Gerald Z. Marer
Mr. Anthony L. Miller
Mr. Darrell L. Sackl

Governing Committee of the Center for Judicial Education and Research[4]

Hon. Thomas M. Jenkins, Chairperson[5]
Hon. Sheila Prell Sonenshine, Vice-Chairperson[6]
Hon. Florence Bernstein[6]
Hon. Ira A. Brown, Jr.[5]
Hon. Robert K. Byers[5]
Hon. Isabel R. Cohen[6]
Hon. LaDoris Hazzard Cordell[6]
Hon. Steven R. McNelis[5]
Mr. B. E. Witkin[7]

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[1] All members of this committee are members of the Judicial Council.

[2] In accordance with the recommendation of this Judicial Council committee and pursuant to the provisions of Government Code section 68501, former Chief Justice Rose Elizabeth Bird appointed an Advisory Committee on Gender Bias in the Courts. The members are: Hon. Elwood Lui, Co-Chair, Hon. Diane Watson, Co-Chair, Hon. Lisa Hill Fenning, Hon. Sheila Prell Sonenshine, Hon. Norman L. Epstein, Hon. Linda Hodge McLaughlin, Hon. Sheila F. Pokras, Hon. Mario G. Olmos, Hon. Sara K. Radin, Hon. Jack Tenner, Hon. Kathryn Doi Todd, Hon. Judith Donna Ford, Hon. Alice A. Lytle, Hon. Frances Munoz, Hon. Brian L. Rix, Hon. Elihu M. Harris, Dean Florian Bartosic, Ms. Linda Broder, Mr. James J. Brosnahan, Mr. Stanley R. Collis, Ms. Tamara C. Dahn, Ms. Marian McClure Johnston, Ms. Sheila James Kuehl, Ms. Andrea Sheridan Ordin, Mr. Herbert M. Rosenthal, Ms. Marjorie C. Swartz and Ms. Patricia Ann Shiu.

[3] One-half of the members of this committee are nominated by the State Bar for appointment by the Chairperson of the Judicial Council.

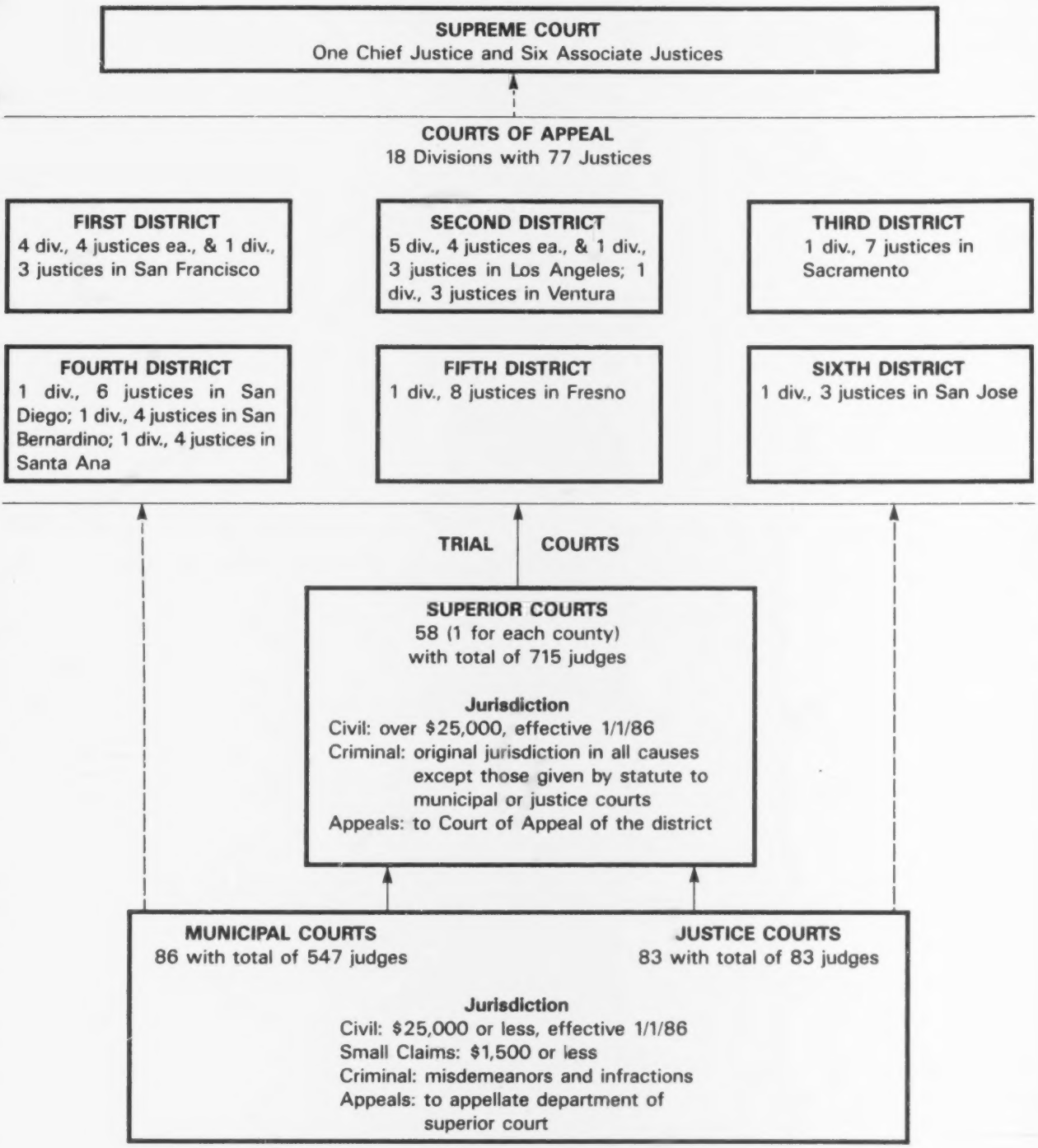
[4] An advisory committee appointed by the Chairperson of the Judicial Council with equal representation from the Judicial Council and the California Judges Association.

[5] California Judges Association representative.

[6] Judicial Council representative.

[7] Advisory member, not a member of the Judicial Council.

CALIFORNIA COURT SYSTEM*


SUPREME COURT
One Chief Justice and Six Associate Justices
COURTS OF APPEAL
18 Divisions with 77 Justices
FIRST DISTRICT
4 div., 4 justices ea., & 1 div., 3 justices in San Francisco
SECOND DISTRICT
5 div., 4 justices ea., & 1 div., 3 justices in Los Angeles; 1 div., 3 justices in Ventura
THIRD DISTRICT
1 div., 7 justices in Sacramento
FOURTH DISTRICT
1 div., 6 justices in San Diego; 1 div., 4 justices in San Bernardino; 1 div., 4 justices in Santa Ana
FIFTH DISTRICT
1 div., 8 justices in Fresno
SIXTH DISTRICT
1 div., 3 justices in San Jose
TRIAL COURTS
SUPERIOR COURTS
58 (1 for each county)
with total of 715 judges
Jurisdiction
Civil: over $25,000, effective 1/1/86
Criminal: original jurisdiction in all causes except those given by statute to municipal or justice courts
Appeals: to Court of Appeal of the district
MUNICIPAL COURTS
86 with total of 547 judges
JUSTICE COURTS
83 with total of 83 judges
Jurisdiction
Civil: $25,000 or less, effective 1/1/86
Small Claims: $1,500 or less
Criminal: misdemeanors and infractions
Appeals: to appellate department of superior court

_____ Line of Appeal
---------- Line of Discretionary Review

* Total number of judges refers to authorized judicial positions as of July 1, 1986.

Profile of the California Judicial System

The California Constitution vests the judicial power of the state in a Supreme Court, Courts of Appeal, superior courts, municipal courts and justice courts (Cal. Const., art. VI, § 1). The superior, municipal, and justice courts are the state's trial courts; the Supreme Court and Courts of Appeal are appellate courts that primarily review trial court decisions.

The Constitution also provides for these agencies concerned with judicial administration: the Judicial Council, that improves and expedites the administration of justice (Cal. Const., art. VI, § 6); the Commission on Judicial Appointments, that votes to confirm gubernatorial appointees to appellate court vacancies (Cal. Const., art. VI, §§ 7, 16); and the Commission on Judicial Performance, that deals with the admonishment, censure, removal or retirement of judges for misconduct or disability (Cal. Const., art. VI, §§ 8, 18).

The California judicial system consists of 234 courts and 1,429 authorized judgeships.[1] The names of judges of the Supreme Court, Courts of Appeal and superior courts are listed in the *California Official Reports*. Over 19 million cases were filed during fiscal year 1985–86; parking violations accounted for over nine million of these cases.

The annual cost of the judicial system, not including capital outlay for facilities, is $1 billion, with $195 million supplied by the state and the remainder funded by local county governments. Court revenues from fines, forfeitures, penalties and court fees, $818 million annually, are distributed to the state, counties and cities.

SUPREME COURT

The Supreme Court of California is the state's highest court, and its decisions are binding on all other California state courts.

The Supreme Court, which consists of a Chief Justice and six Associate Justices, has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The court also has original jurisdiction in habeas corpus proceedings. (Cal. Const., art. VI, § 10.)

Members of the Supreme court are appointed by the Governor and confirmed by the Commission on Judicial Appointments. To be considered for appointment, a person must be an attorney admitted to practice law in California or have served as a judge of a court of record in this state for 10 years immediately preceding appointment (Cal. Const., art. VI, § 15). Regular sessions are held in San Francisco, Los Angeles and Sacramento; the court may also hold special sessions elsewhere. Almost 5,000 matters were filed in the Supreme Court during fiscal year 1985–86; about 3,800 were petitions for review in cases previously decided by the Courts of Appeal.

The state Constitution gives the Supreme Court the authority to review decisions of the state Courts of Appeal. (Cal. Const., art. VI, § 12.) This reviewing power enables the Supreme Court to decide important legal questions and to maintain uniformity in the law.

A 1985 amendment to the state Constitution allows the Supreme Court to select specific issues for consideration in Court of Appeal cases in which review is sought by the litigants, rather than having to decide all the issues in every case that it accepts. (Cal. Const., art. VI, § 12.) This amendment permits the Supreme Court to focus its attention on the most important issues.

The state Constitution directs the Supreme Court to review all cases in which a judgment of death has been pronounced by the trial court. (Cal. Const., art. VI, § 11.) Under state law, these cases are automatically appealed. (Pen. Code, § 1239, subd. (b).)

In addition, the Supreme Court reviews the recommendations of the Commission on Judicial Performance and the State Bar of California concerning the discipline of judges and attorneys for misconduct.

Decisions of the Supreme Court are published in the *Official Reports*.

COURTS OF APPEAL

The Courts of Appeal, established by a constitutional amendment in 1904, are California's intermediate courts of review. They have appellate jurisdiction when superior courts have original jurisdiction, and in certain other cases prescribed by statute. Like the Supreme Court, they have original jurisdiction in habeas corpus, mandamus, certiorari and prohibition proceedings (Cal. Const., art. VI, § 10). Almost 16,300 appeals and original proceedings were filed during fiscal year 1985–86.

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[1]As of July 1, 1986, there were 1,372 filled judgeships in California. The number of filled judgeships during the fiscal year ranged from 1,326 to 1,377. References to judgeships in this summary refer to authorized positions.

California has six appellate districts, each with at least one division. Each division is headed by three or more justices, appointed by the Governor and confirmed by the Commission on Judicial Appointments. The same rules governing the selection of Supreme Court justices apply to those serving on the Courts of Appeal. The Legislature has constitutional authority to create new Court of Appeal districts and divisions (Cal. Const., art. VI, § 3).

The six operating appellate districts are composed of 18 divisions and 77 justices. District headquarters are: First District, San Francisco; Second District, Los Angeles; Third District, Sacramento; Fourth District, San Diego; Fifth District, Fresno; Sixth District, San Jose.

Cases are decided by three-judge panels. Decisions of the panels, known as opinions, are published in the *California Appellate Reports* if those opinions meet certain criteria for publication. In general, the opinion is published if it establishes a new rule of law; involves a legal issue of continuing public interest; criticizes existing law or makes a significant contribution to legal literature (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 976). During fiscal year 1985–86, 14 percent of Court of Appeal opinions were certified as meeting the criteria for publication.

SUPERIOR COURTS

The superior court is the trial court of general jurisdiction. It is sometimes called the trial court of residual jurisdiction, because it accepts all matters except those statutorily given to other trial courts (Code Civ. Proc., § 82). The superior court sits as a probate court, juvenile court and conciliation court (see Prob. Code, § 301; Welf. & Inst. Code, § 245; Civ. Code, § 4351; Code Civ. Proc., § 1733).

In addition, the superior court has trial jurisdiction over all felony cases, and all civil matters above the jurisdiction of the municipal and justice courts (Cal. Const., art. VI, § 10; Pen. Code, § 1462; Code Civ. Proc., § 86). The superior court also handles cases asking for special relief, such as an injunction or a declaratory order.

There is a superior court in each of California's 58 counties; case workload determines the number of judges as fixed by the Legislature (Cal. Const., art. VI, § 4). The number in each court ranges from one in the sparsely-populated counties to more than 200 in Los Angeles County, reaching a total of 715 judges statewide. (See Gov. Code, § 69580 et seq.) More than 870,000 cases were filed during the 1985–86 fiscal year, including 620,000 civil filings, 120,000 juvenile filings and 95,000 criminal filings.

Superior court judges serve six-year terms and are elected by voters of the county on a nonpartisan ballot at a general election (Cal. Const., art. VI, § 16(b) and (c); Elec. Code, § 37). Vacancies are filled by appointment of the Governor. A superior court judge must be an attorney admitted to practice law in California or have served as a judge of a court of record in this state for at least 10 years immediately preceding election or appointment (Cal. Const., art. VI, § 15).

The superior court also hears appeals from decisions of municipal and justice courts (Cal. Const., art. VI, § 11). All appeals, other than those in small claims cases, are heard by a three-judge appellate department in each county and are governed by rules adopted by the Judicial Council (Cal. Const., art. VI, § 6; Code Civ. Proc., §§ 77, 117.10, 901; Pen. Code, § 1468). Appeals also may be transferred to the Courts of Appeal (Cal. Rules of Court, rules 61–69).

MUNICIPAL COURTS

The two types of trial courts below the superior court are municipal and justice courts. Since January 1, 1977, the civil and criminal jurisdiction of municipal and justice courts has been the same (Code Civ. Proc., § 86; Pen. Code, § 1462).

There are 86 municipal courts with a total of 547 judges. State legislation authorizes the county boards of supervisors to divide counties into judicial districts.

A municipal court is automatically established when the judicial district's population exceeds 40,000 (Cal. Const., art. VI, § 5).

Municipal courts have original trial jurisdiction in criminal misdemeanor and infraction cases (Pen. Code, § 1462). Until January 1, 1986, the civil jurisdiction included cases arising within the municipal court district involving $15,000 or less. Effective January 1, 1986, the limit was increased to cases involving $25,000 or less (Code Civ. Proc., § 86). Municipal courts also exercise small claims jurisdiction in cases not exceeding $1,500 (Code Civ. Proc., § 116.2); these cases are heard under simplified procedures, without attorneys. In addition, judges at this level act as magistrates, presiding over preliminary hearings in felony cases to determine whether there is reasonable and probable cause to hold a defendant for further proceedings in superior court.

More than 18 million cases were filed in both municipal and justice courts during the 1985–86 fiscal year, including over nine million parking

violations. Over 8.5 million nonparking cases were filed in municipal courts. Over 560,000 nonparking cases were filed in justice courts.

Municipal court judges are elected for six-year terms on a nonpartisan ballot by voters residing in the judicial districts in which their courts are located (Gov. Code, § 71145). Vacancies are filled by the Governor (Gov. Code, § 71180). To be eligible, candidates must have been admitted to the practice of law in California for at least five years immediately preceding election or appointment (Cal. Const., art. VI, § 15).

JUSTICE COURTS

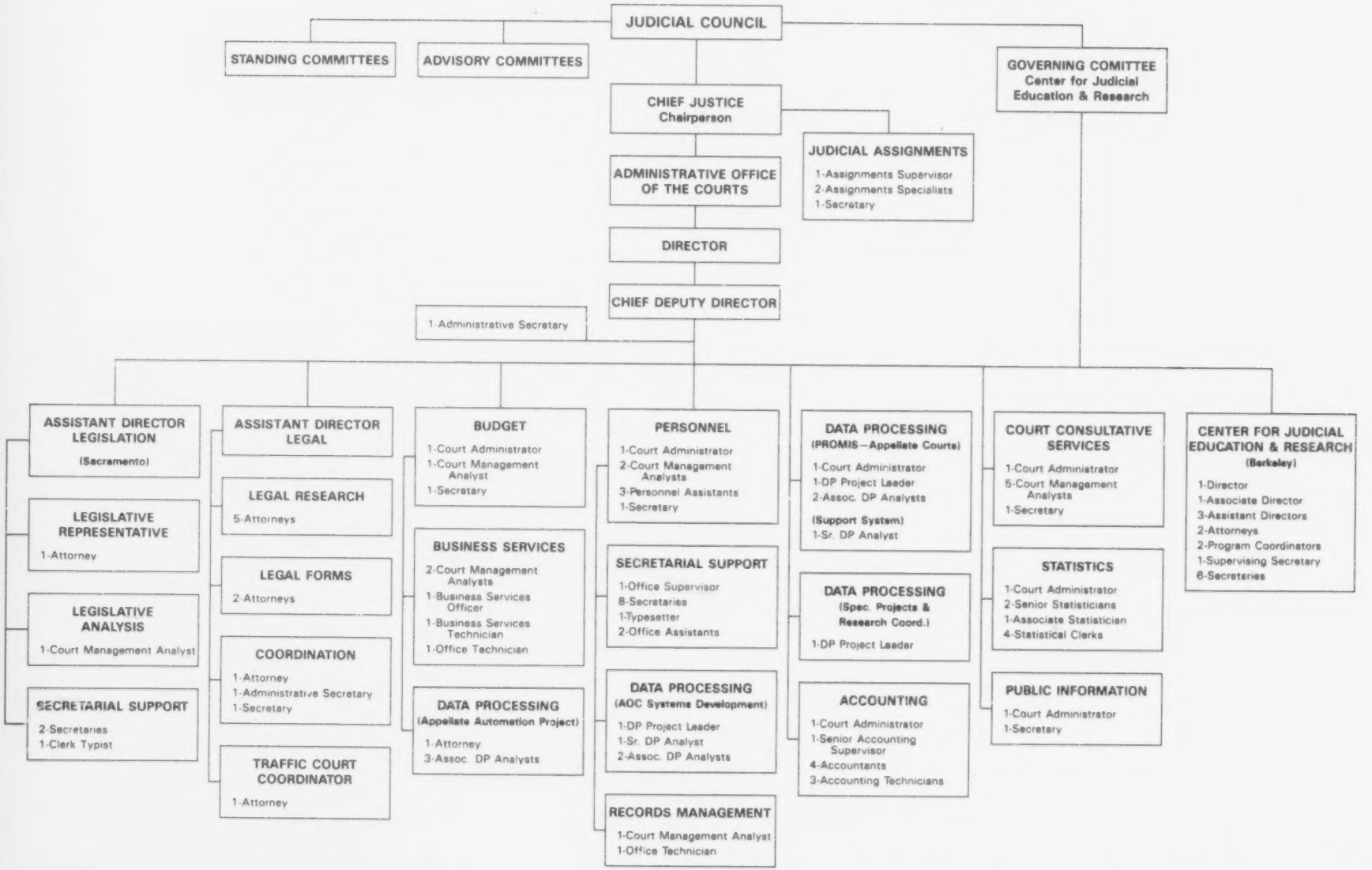
Constitutional provision is made for the establishment of a justice court in each judicial district having a population of 40,000 or less (Cal. Const., art. VI, § 5(a)). There are 83 justice courts in the state.

Justice court judges are elected for six-year terms with vacancies filled by appointment of local county boards of supervisors, or by election. Boundaries and number of justice court districts are also set by the boards of supervisors. Before February 18, 1975, a justice court judge was required to be an attorney admitted to the California State Bar or to pass a qualifying examination given by the Judicial Council. (See Hennessy, *Qualification of California Justice Court Judges: A Dual System*, 3 Pacific L.J. 439 (1972).) Under legislation (Stats. 1974, ch. 1493) effective after the decision in *Gordon* v. *Justice Court* (1974) 12 Cal.3d 323, justice court vacancies must be filled by attorneys (Gov. Code, §§ 71601, 71701).

Since most justice courts have part-time caseloads, judges may supplement their judicial compensation with a private law practice. They may not practice law, however, before justice courts within their own county. Under legislation adopted after the *Gordon* case, the Chief Justice has designated several incumbent judges to serve as full-time circuit justice court judges. These judges receive salaries fixed by statute and paid through a state appropriation.

Judges of the Supreme Court, Courts of Appeal, superior courts and municipal courts may not practice law and are ineligible for any other public employment or public office. A superior or municipal court judge may, however, become eligible for election to another public office by taking a leave of absence without pay before filing a declaration of candidacy for that office. Acceptance of the new office constitutes resignation as a judge (Cal. Const., art. VI, § 17).

1986 CALIFORNIA JUDICIAL COUNCIL ORGANIZATION CHART



PART I

JUDICIAL COUNCIL REPORT

Chapter 1

FAMILY COURT SERVICES

The Judicial Council has been charged with responsibility for implementing Civil Code sections 5180–5183, "Statewide Coordination of Family Court Services." A special section of the Court Consultative Services Unit (CCS) of the Administrative Office of the Courts has been delegated the duty of implementing the statutes, which involves the coordination of family mediation and conciliation services throughout California (Assem. Bill No. 2445, Stats. 1984, Ch. 893).

The legislation requires the Judicial Council to provide family court services in four major areas:

1. To assist counties in implementing mediation services;
2. To develop and administer training programs for court personnel involved in the family law area;
3. To establish a uniform information and statistical reporting system for family law related matters; and
4. To establish and administer a grant program for research, study, and demonstration projects in specified family law areas.

Projects in these areas will provide the basis for evaluation of the effectiveness of current laws, the development of alternative dispute resolution methods and guidelines for child support. Program areas during 1986 and 1987 are discussed below.

I. IMPLEMENTATION OF MEDIATION SERVICES

The AOC currently provides consulting services to trial courts in various management areas, including calendar management, court organizational structure and workflow, facilities management, and automation. Beginning in 1986, the AOC extended its consulting services to counties in family law matters. At the request of a presiding judge or executive officer of a superior court, a county clerk or a director of family court services, the AOC provides assistance in reviewing existing services or programs. The AOC may act as a consultant in presenting alternatives without specific recommendations, or may provide a written court study focusing on a particular problem, with accompanying documentation and analysis of court operations.

The AOC plans to establish a clearinghouse of information on existing family law programs and services, new dispute resolution techniques, successful implementations of newly mandated programs, and research on family law issues. The clearinghouse will also include information on the projects funded through the research, study, and demonstration grant programs.

To provide a foundation for the above, a questionnaire requesting program information was sent to each of the 58 counties which provide family law services in January 1987. The purpose of the questionnaire was to obtain a profile of mediation and child custody evaluation/investigation services provided in each county.

II. DEVELOPMENT AND ADMINISTRATION OF TRAINING PROGRAMS

Plans for implementing this area of the legislation encompass four areas: assessing the training needs of court personnel and implementing suitable training programs; sponsoring and conducting an annual statewide conference for judges, mediators, and evaluators; providing regional training seminars on new programs, services, and techniques; and developing a statewide training guide for court personnel working in the family law area. Each of these areas is discussed more fully below.

In 1986, the AOC distributed a training needs assessment survey to mediators and evaluators. A similar survey of judges and attorneys will be distributed in the spring of 1987. The data collected will assist in planning training programs for fall 1987 and beyond.

The AOC provided funds for speakers and training materials for the 1986 Family Court Services Conference. The AOC also conducted the 1987 Conference for Family Court Services in March. The conference included plenary sessions of general interest and concentrated training in specific subject areas designed to sharpen participant skills. A major goal of the conference was to facilitate the exchange of ideas between participants.

The Family Court Services program also provides

regional training seminars and workshops for family court services personnel, judges, and administrators. These workshops deal with specific issues of interest to family law professionals and emphasize small group discussion. During 1986, the AOC coordinated regional training sessions in Los Angeles and Sacramento for mediators. The sessions focused on enhancing communication competence for mediators.

A statewide family court services directors' conference was held to discuss research, statistical reporting, training needs, a counselor exchange program, and special issues of concern to the administration and planning of family court services. These workshops, along with other regional and statewide conferences, will continue to be conducted at regular intervals in the future.

In addition to workshops, the AOC plans to develop a statewide training reference guide for court personnel working in the family law area.

III. ESTABLISHMENT OF A UNIFORM STATISTICAL REPORTING SYSTEM

The purpose of this portion of the project is to collect uniform statewide statistics on family law matters and family court service activity. Data will be collected through an existing automated system, STATSCAN. Information is gathered through the STATSCAN system using bar codes, portable scanners, and microcomputers. STATSCAN will be expanded to include data elements essential to the family law area and full implementation of Civil Code §§ 5180–5183. The data collected will be used for administrative and planning purposes, to determine areas requiring further study and research, and to establish a data base for evaluation of programs and services.

Through the STATSCAN project, a number of data elements essential for workload management have been identified. There are, however, additional data elements necessary to evaluate and monitor family law services which will be included in the data base. The AOC will be working with the family law advisory committee to identify key workload indicators, evaluation measurements, and supplemental data.

During 1987, the AOC is developing and refining the STATSCAN system in a select number of courts. STATSCAN's utility for statistical data collection and applicability to court operations is now being tested; to date, it has been successful. Family Court Service Agencies will be able to use the STATSCAN system, with some modification, to meet their statistical reporting needs.

During 1987, the AOC will be working to identify appropriate data collection points, operational needs, and additional system specifications for implementation of a statewide system.

IV. ESTABLISHMENT AND ADMINISTRATION OF A GRANT PROGRAM

This part of the project involves assessing research needs and determining appropriate study areas; developing a system for soliciting, receiving, and evaluating grant applications; granting funds to conduct research in the designated areas; and distributing the results of research, study, and demonstration projects to family law personnel throughout the state.

During 1987, the AOC will research needs for family law and family court services. This assessment will be accomplished with the assistance of the advisory committee and research consultants, and will be used to formulate requests for proposals for research and demonstration projects.

The text of Civil Code Sections 5180–5183 follows:

TITLE 10
STATEWIDE COORDINATION OF FAMILY MEDIATION AND CONCILIATION SERVICES

1984 Note: This act shall not be construed to impose any new or additional mandatory family law mediation procedures upon local agencies. 1984 ch. 893 § 5.

Legislature's past changes; need for others. § 5180.
Requirements of Judicial Council in statewide coordination of family mediation and conciliation services. § 5181.
Establishment of advisory committee to recommend criteria for determining grant recipients. § 5182.
Funds, grants, gifts, or bequests deposited into General Fund. § 5183.

§ 5180. Legislature's Past Changes; Need for Others.

The Legislature finds that it has made many significant changes in the area of family law in recent years, including legislation authorizing awards for the joint custody of children and requiring the mediation of child custody and visitation disputes. There presently is no statewide coordination of the application of these new laws, no uniform statistical reporting system as to family law matters, no ongoing training for personnel involved in the expanded family law system, and no evaluation of the effectiveness of current law for the purpose of shaping future public policy. Leg.H. 1984 ch. 893, effective September 6, 1984.

§ 5181. Requirements of Judicial Council in Statewide Coordination of Family Mediation and Conciliation Services.

The Judicial Council shall do all of the following:

(a) Assist counties in implementing Sections 4351.5 and 4607.

(b) Establish and implement a uniform statistical reporting system relating to actions brought pursuant to this part, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area offamily law, including, but not limited to, all of the following:

(1) The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation. (2) The establishment of criteria to insure that a child support order is adequate.

(3) The development of methods to insure that a child support order is paid.

(4) The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds specified in Section 5183. Leg.H. 1984 ch. 893, effective September 6, 1984.

§ 5182. Establishment of Advisory Committee to Recommend Criteria for Determining Grant Recipients.

The Judicial Council shall establish an advisory committee of persons representing a broad spectrum of interest in and knowledge about family law. The committee shall recommend criteria for determining grant recipients pursuant to subdivision (c) of Section 5181, which shall include proposal evaluation guidelines and procedures for submission of the results to the Legislature, the Governor, and family law courts. In accordance with established criteria, the committee shall receive grant proposals and shall recommend the priority of submitted proposals. Leg.H. 1984 ch. 893, effective September 6, 1984.

§ 5183. Funds, Grants, Gifts, or Bequests Deposited Into General Fund.

Funds collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, subdivision (a) of Section 26832 of the Government Code, and grants, gifts, or bequests made to the state from private sources to be used for the purposes of this title shall be deposited into the General Fund and shall only be used for the purposes of this title. No funds other than those so deposited shall be used for those purposes. That money shall be appropriated to the Judicial Council for the support of the programs authorized by this title as provided by the Legislature in the annual Budget Act. The Judicial Council may utilize funds to provide staffing as may be necessary to carry out the purposes of this title. In order to defray the costs of collection of these funds, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code. Leg.H. 1984 ch. 893, effective September 6, 1984, 1985 ch. 851.

Chapter 2

STATSCAN: NEW DATA COLLECTION AND CASE TRACKING SYSTEM

STATSCAN is a comprehensive data collection system for the California trial courts utilizing bar codes, scanners, and microcomputers. This new system is the result of a three-year project to evaluate and redesign the trial courts' statistical reporting system. STATSCAN, designed to provide data collection and case tracking, will also give the courts and the Administrative Office of the Courts (AOC) additional information to improve management of trial court workload and resources.

Data is collected by scanning bar code labels on court case files and menu cards using portable hand held or on-line scanners. When a case is filed in a court, a clerk places a bar code label on the file jacket, which corresponds to the court's case number. As case events occur, clerks use the scanners to record the case file number and appropriate bar codes from the Judicial Council menus. The data is stored in the portable scanner until transmitted to the court's microcomputer. Data scanned using an on-line scanner is added to the microcomputer's data base automatically. The court manager has access to this data and the capability of producing a variety of workload reports. For example, the Summary and Condition of Calendar Reports currently submitted by the trial courts to the AOC will be electronically transmitted to the AOC host computer. This will eliminate the need to hand tally, calculate and type statistics, and mail forms to the AOC. The system will also provide the court manager with audit trails of individual cases.

The AOC began this project to find an efficient means of collecting data on the enormous number of cases in the court system. The second goal was to provide a better means of compilation so that data could be used for proactive management. The goals developed for the system match the needs of the courts and the AOC. They include satisfying user needs for statistics; improving the accuracy of the data collected; providing a mechanism for producing management statistics that allow proactive rather than reactive management; streamlining the data collection, reporting, and compilation process; producing annual statistical data within 30 days of the year's end; improving the weighted caseload system; improving the AOC's ability to analyze the effects of new legislation; providing an advanced data collection technology that will have widespread applications for a variety of court operations, and avoiding the need for additional staff.

AOC staff and a court committee investigated a variety of data collection methods and determined bar coding was the most suitable for project needs. Bar coding has been used extensively in a variety of environments, such as manufacturing, supermarkets, and hospitals, but its application to paper records is relatively new. Bar coding was developed to improve the accuracy and efficiency of data entry. The speed of entry is increased two to three times and the error rate is reduced to approximately one in three million. The most important advantage of this system over a manual process, however, is that it allows courts to collect age of inventory information with no additional effort. Each entry is date and time stamped; thus the time between key events is automatically recorded. This feature allows court managers to be more innovative in managing workloads and resources.

During 1986, the AOC initially installed the system in four pilot courts to determine the viability of the STATSCAN system for statistical data collection and court operations. These courts included the Oakland-Piedmont-Emeryville Municipal Court, the San Diego Superior Court, the Los Angeles Municipal Court, and the Napa Superior Court.

Bar coded data was initially scanned in February 1986. The first test provided sufficient validation of the system to justify a more extensive pilot project. The most important finding was that clerks used the scanners and found the system simple and easy to operate. In June, the AOC distributed an application to participate in the second phase of the pilot project to all trial courts in California. In July, 28 additional courts were selected for participation. These courts began collecting data in 1986 and will continue to do so during 1987.

The AOC plans to continue testing, developing, and expanding the STATSCAN system during 1987.

Chapter 3

TRIAL COURT DELAY REDUCTION ACT

The Trial Court Delay Reduction Act of 1986 establishes a pilot program in selected counties to reduce delay in litigation (Article 5, commencing with Section 68600 of Chapter 2 of Title 8 of the Government Code). The bill was authored by Assembly Speaker Willie L. Brown, Jr. (Assembly Bill No. 3300, Stats. 1986, ch. 1335). It was sponsored by Attorney General John K. Van de Kamp, and was based in part on a presentation by the Institute for Court Management describing a successful program of trial delay reduction in Phoenix, Arizona.

Nine counties were identified by the Judicial Council in December 1986, as meeting the requisite statutory caseload criteria (Gov. Code, § 68605). The project counties are: Alameda, Contra Costa, Kern, Los Angeles, Orange, Riverside, Sacramento, San Diego, and San Francisco. Each superior court in those counties is to establish an exemplary delay reduction program with not less than four judges participating.

The programs will commence January 1, 1988, and continue for three years. The Judicial Council is to report to the Legislature by July 1, 1991, on the results of the program and whether it should be used in all superior and municipal courts in the state.

The statute also requires that new statistical data be collected for all courts. Time of filing to disposition will be collected along with other statistics. Each court's statistics will be published annually, showing a comparison to statewide standards of timely disposition for civil and criminal cases. The Judicial Council is to adopt those standards by July 1, 1987.

The Judicial Council supported the principle of timely disposition of cases contained in AB 3300.

The Administrative Office of the Courts has entered a long term contract with the Western Regional Office of the National Center for State Courts to provide training and consultation services on this project. The complete bill text follows.

Assembly Bill No. 3300

CHAPTER 1335

An act to add Article 5 (commencing with Section 68600) to Chapter 2 of Title 8 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3300, W. Brown. Trial courts: delay.

(1) Existing law specifies the duties of the Judicial Council relative to court administration, practice, and procedure.

This bill would enact the Trial Court Delay Reduction Act of 1986, requiring the Judicial Council to adopt standards of timely disposition for the processing and resolution of civil and criminal actions; to collect, maintain, and publish certain statistics; to establish a 3-year exemplary delay reduction program in designated courts, as specified, thereby creating a state-mandated local program by requiring a higher level of service under an existing program; and to report to the Legislature thereon no later than July 1, 1991.

(2) The bill would appropriate $130,000 from the General Fund to the Judicial Council for purposes of the act, and state the intent of the Legislature with regard to future funding.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $500,000 statewide and other procedures for claims whose statewide costs exceed $500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide costs does not exceed $500,000, shall be payable from the State Mandates Claims Fund.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 68600) is added to Chapter 2 of Title 8 of the Government Code, to read:

Article 5. The Trial Court Delay Reduction Act of 1986

68600. This article shall be known and may be cited as the Trial Court Delay Reduction Act of 1986.

68601. The Legislature hereby finds and declares that:

(a) The expeditious and timely resolution of civil and criminal actions is an integral and necessary function of the judicial branch of state government under Article VI of the California Constitution.

(b) Delay in the resolution of both civil and criminal litigation is not in the best interests of the state and the public. The people of the State of California expect and deserve prompt justice and the speedy resolution of disputes. Delay in the resolution of litigation may reflect a failure of justice and subjects the judiciary to a loss of confidence by the public in both its fairness and utility as a public institution. Delay reduces the chance that justice will in fact be done, and often imposes severe emotional and financial hardship on litigants.

(c) Cases filed in California's trial courts should be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of parties to adequately prepare and present their cases to the courts.

(d) Various methods for reducing delay in the litigation of cases in trial courts have been identified and tested, and have been effective in reducing the time necessary for the resolution of both civil and criminal litigation. It is in the public interest for certain trial courts to utilize these methods on a pilot program basis, in order to demonstrate their effectiveness in California.

68602. The Legislature further finds and declares that the expenditure of any state funds appropriated for purposes of this article is in the public interest and necessary to the accomplishment of the purposes set forth in Section 68601.

68603. (a) On or before July 1, 1987, the Judicial Council shall adopt standards of timely disposition for the processing and disposition of civil and criminal actions. The standards shall be guidelines by which the progress of litigation in the superior court of every county may be measured. In establishing such standards, the Judicial Council shall be guided by the principles that litigation, from commencement to resolution, should require only that time reasonably necessary for pleadings, discovery, preparation and court events, and that any additional elapsed time is delay and should be eliminated.

(b) The Judicial Council may adopt the standards of timely disposition adopted by the National Conference of State Trial Judges and the American Bar Association or may adopt different standards, but in the latter event shall specify reasons for approval of any standard which permits greater elapsed time for the resolution of litigation than that provided in the standards of the National Conference of State Trial Judges.

68604. Beginning on January 1, 1988, the Judicial Council shall collect and maintain statistics, and shall publish them at least on a yearly basis, regarding the compliance of the superior court of each county and of each branch court with the standards of timely disposition adopted pursuant to Section 68603. In collecting and publishing such statistics, the Judicial Council shall measure the time required for the resolution of civil cases from the filing of the first document invoking court jurisdiction, and for the resolution of criminal cases from the date of arrest, including a separate measurement in felony cases from the first appearance in superior court.

68605. On or before February 1, 1987, the Judicial Council shall designate the four superior courts with 18 or more judicial positions which, as of June 30, 1986, had the highest ratio per judicial position of at-issue civil cases pending more than one year, and the five superior courts with more than eight judicial positions, not otherwise designated, with the highest such ratio. In each such court, an exemplary delay reduction program shall be established. The superior court of any other county, at the option of the presiding judge, may elect to establish an exemplary delay reduction program, and the Judicial Council may designate additional superior courts for participation in an exemplary delay reduction program.

68606. In each of the counties in which an exemplary delay reduction program is established, the presiding judge shall, on or before March 1, 1987, (a) select a sufficient number of judges for the program that will provide, consistent with the size of the court, an adequate basis for determining the effectiveness of the methods for reducing delay specified in this article; provided, however, that a minimum of four judges shall be included in the program; and (b) identify the particular judges who will participate in the program. Each presiding judge may select, and is encouraged to select, all the judges of the superior court or the branch of a superior court as the judges of an exemplary delay reduction program.

68607. (a) The judges selected for an exemplary delay reduction program shall serve for the term of the program; provided, however, that a presiding judge may appoint a replacement judge in the event of elevation, retirement, disability, or death.

(b) Except in instances where all the judges of a superior court or the branch of a superior court are selected, the judges selected for an exemplary delay reduction program shall be assigned only civil cases unless otherwise required by constitution or statute.

(c) No provision of this article shall affect the power of the Chief Justice to make assignments of judges.

68608. The judges selected for an exemplary delay reduction program shall commence operation of the program on January 1, 1988, continuing for a three-year period. The judges involved in such programs shall have the responsibility to eliminate delay in the progress and ultimate resolution of

litigation, to assume and maintain control over the pace of litigation, to actively manage the processing of litigation from commencement to disposition, and to compel attorneys and litigants to prepare and resolve all litigation without delay, from the filing of the first document invoking court jurisdiction to final disposition of the action.

In operation of an exemplary delay reduction program, the judges of the program shall, consistent with the policies of this article:

(a) Actively monitor, supervise and control the movement of all cases assigned to the program from the time of filing of the first document invoking court jurisdiction through final disposition.

(b) Seek to meet the standards for timely disposition adopted pursuant to Section 68603.

(c) Establish procedures for early identification of cases within the program which may be protracted and for giving such cases special administrative and judicial attention as appropriate, including special assignment.

(d) Establish procedures for early identification and timely and appropriate handling of cases within the program which may be amenable to settlement or other alternative disposition techniques.

(e) Adopt a trial setting policy which, to the maximum extent possible, schedules a trial date within the time standards adopted pursuant to Section 68603 and which schedules a sufficient number of cases to ensure efficient use of judicial time while minimizing resetting caused by overscheduling.

(f) Commence trials on the date scheduled.

(g) Adopt and utilize a firm, consistent policy against continuances, to the maximum extent possible and reasonable, in all stages of the litigation.

68609. (a) Beginning on January 1, 1988, the presiding judge of each superior court with an exemplary delay reduction program shall assign a pro rata share of new cases, and an appropriate number of existing cases, to the program, and these cases shall thereafter be handled by the judges of the program for all purposes.

(b) Juvenile, probate, and domestic relations cases need not be assigned to an exemplary delay reduction program, and cases which have been assigned to a judge or judges for all purposes based on subject matter need not be assigned to the program.

(c) No case shall be removed from an exemplary delay reduction program because of a challenge filed under Section 170.6 of the Code of Civil Procedure.

(d) In order to enforce the requirements of an exemplary delay reduction program and orders issued in cases assigned to it, the judges of the program shall have all the powers to impose sanctions authorized by law, including the power to dismiss actions or strike pleadings as appropriate, and are encouraged to utilize them in order to achieve the purposes of this article.

68610. The Judicial Council, in conjunction with other interested groups as it determines appropriate, shall prepare and administer a program, consistent with the policies and requirements of this article, for the training of judges selected for inclusion in an exemplary delay reduction program.

68611. The Judicial Council shall collect and maintain statistics, and shall publish them at least on an annual basis, regarding the compliance of each court in the exemplary delay reduction program with the standards for timely disposition adopted pursuant to Section 68603, with the policies and requirements of this article, and regarding the cases assigned to the judges of each program. On or before July 1, 1991, the Judicial Council shall report to the Legislature on the results of the exemplary delay reduction program and recommend whether the requirements of Section 68608 should be applied to the superior or municipal courts of the state.

68612. The judges selected in each county as judges of an exemplary delay reduction program shall, in consultation with the bar of the county to the maximum extent feasible, develop, and publish the procedures, standards, and policies which will be used in the program, including time standards for the conclusion of all critical steps in the litigation process, including discovery, and shall meet on a regular basis with the bar of the county in order to explain and publicize the program and the procedures, standards, and policies which shall govern cases assigned to the program. Such procedures, standards, and policies may be inconsistent with the California Rules of Court. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all of such procedures, standards, or policies on a statewide basis.

68613. The Judicial Council may receive and expend on the programs established by this article any funds available from county, state, or federal government or other sources which may be available for such purposes.

68614. Nothing in this article is intended to prevent a presiding judge from directing the use of the methods of delay reduction specified in Section 68608 by judges who are not part of an exemplary delay reduction program.

68615. In its discretion, the Judicial Council may contract out for performance of any of the duties imposed by this article.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. The sum of one hundred thirty thousand dollars ($130,000) is hereby appropriated from the General Fund to the Judicial Council for the purposes of this act.

SEC. 4. It is the intent of the Legislature that, commencing with the 1987–88 fiscal year, the purposes of this act shall be funded in the annual budget acts.

Chapter 4

COMMITTEE ON GENDER BIAS IN THE COURTROOM

I. INTRODUCTION

On July 15, 1986, Chief Justice Rose Elizabeth Bird appointed a special committee of Judicial Council members to review issues of gender bias in the court system.

The committee members were: Associate Justice Elwood Lui of the Court of Appeal for the Second Appellate District, Division Three, Chair; Presiding Justice Arleigh M. Woods of the Court of Appeal for the Second Appellate District, Division Four; Associate Justice Pauline D. Hanson of the Court of Appeal for the Fifth Appellate District; Judge Florence Bernstein of the Los Angeles County Superior Court; Judge Frances Munoz of the Orange County Harbor Municipal Court District; Judge Mikio Uchiyama of the Fowler-Caruthers Justice Court District; and Mr. Robert D. Raven, Attorney, San Francisco.

The committee was charged with: (1) reviewing specific suggestions for changes in court practice and procedure designed to ensure equal treatment for men and women in the court system; and (2) reporting its recommendations to the full Judicial Council.

To that end, the committee conducted an extensive review of proposals pending in California and proposals contained in the reports of other states. The committee's initial task was to isolate those suggestions meriting immediate action by the Judicial Council and those requiring further study and fact-finding. The nature and extent of the activities and research of judges and lawyers in California relating to gender bias persuaded the committee members that immediate action in specified areas and further study of other proposals are necessary to correct any perception of gender bias in the California courts.

II. PRELIMINARY FINDINGS

In the course of its review of proposals pending in California and other states, the committee made the following preliminary observations and findings:

1. The committee commended the efforts of the California judiciary, the California Judges Association, and the National Association of Women Judges to create and preserve fairness for all participants in the court system. The committee further recognized the dedication and contributions of the California Center for Judicial Education and Research (CJER) in developing judicial education programs on gender bias issues.

2. The committee commended the accomplishments and proposals of the various associations of women lawyers, other attorney organizations, and State Bar committees. These groups have noted the problems and launched projects to ensure fairness in our legal system and continue to monitor their progress in California.

3. The committee's work was substantially enhanced by the existence of the reports from the New Jersey Supreme Court Task Force on Women in the Courts and the New York Task Force on Women in the Courts. The reports were of national significance and offered valuable comments and suggestions on ways to eliminate gender bias within the judicial system. The committee found that many of these suggestions appear equally applicable in California.

4. Although the committee's charge was necessarily limited to issues of gender bias, the committee recognized that other areas of bias or discrimination warrant attention and study at another time and under another charge.

III. SUMMARY OF PROPOSALS

Based on its review of the materials from other states and in California, the committee developed eight proposals relating to gender bias in the court system. These eight proposals, which concern both suggested changes in court practice and procedure and further study of specific issues of gender bias, may be summarized as follows:

1. A recommendation to the Governing Committee of CJER to review and augment judicial education programs on gender bias;

2. A recommendation to review and develop specific seminars on gender bias in the training programs and workshops conducted by the Administrative Office of the Courts (AOC);

3. A proposed Standard of Judicial Administration relating to gender bias in the courtroom;

4. A proposed Standard of Judicial Administration relating to the availability of waiting rooms for children on court premises;

5. A proposed Standard of Judicial Administration relating to the use of gender neutral language in local rules, forms, and court documents;

6. A proposed instruction to staff of the AOC to ensure gender neutral language in all statewide rules, standards, and forms;

7. A recommendation to transmit the relevant reports from other states to certain specified agencies so that matters outside the scope of the Judicial Council's authority might be addressed by the appropriate governmental entity; and

8. A comprehensive proposal mandating further study of an extensive list of issues relating to gender bias in the court system.

In accordance with the policy of the Chief Justice to seek the views of a wide variety of persons on proposals for changes in court practice and procedure, a preliminary report summarizing the committee's eight proposals was circulated for statewide comment. The report was sent to every judge in the state; numerous bar associations and individual lawyers; court clerks and administrators; and public organizations interested in the issues.

IV. JUDICIAL COUNCIL ACTION ON PROPOSALS

All of the committee's eight recommendations were adopted by the Judicial Council. As further recommended by the committee, the council urged that further study of gender bias issues be conducted by an advisory committee of at least 16 members appointed by the chairperson of the Judicial Council. The issues to be studied would include:

1. employment practices for state and local judicial branch employees;

2. elimination of gender bias within the judiciary, including but not limited to court and committee assignment practices;

3. selection procedures in court-appointed counsel programs both at the trial and appellate levels;

4. language and impact of pattern jury instructions;

5. domestic violence issues including but not limited to: calendar preference for violation of restraining orders; desirability of mutual protective orders; availability of a judicial officer on a 24-hour basis; use of counseling as a diversion in spousal abuse cases; spousal abuse as evidence in custody disputes; spousal abuse as evidence in visitation disputes; and the uniformity and effectiveness of contempt proceedings;

6. custody issues, including but not limited to the imposition by law of specific factors which must be considered in determining the best interests of the child;

7. child support issues, including but not limited to: representation of indigent custodial parents; penal sanctions for nonpayment of support; adoption of a more equitable formula for determining support; automatic cost of living increases in support orders; limitation on availability of modification of support orders in proceedings to collect arrearages;

8. economic issues in dissolution proceedings, including but not limited to: evaluating the reduced earning capacity of homemakers; evaluating a spouse's contribution to the appreciation in value of the other spouse's separate property; equitable valuation of assets; consideration of the family's standard of living; adequacy of attorneys' fees awards; adequacy of discovery; and the equity of settlement agreements;

9. the need for and feasibility of collecting information and data in the following areas: domestic violence recidivism; uniformity of domestic violence contempt proceedings; child support enforcement; economic factors in dissolutions; the efficacy of counseling in spousal abuse cases; and disparate sentencing between male and female offenders for both adults and juveniles;

10. the adequacy of judicial education programs for family law judges and an examination of procedures for assignment to family law departments.

The council further recommended that the advisory committee be authorized to consult with other professionals in the justice system; to conduct public hearings, regional meetings, and surveys; to collect statistical information; and to perform any other tasks consistent with the Judicial Council's authority and the committee's charge.

Chapter 5

TELEVISED ARRAIGNMENT PROJECTS

In 1986 the Judicial Council approved the first of the annual reports to the Legislature required by Penal Code section 977.2. That section creates an exception to Penal Code section 977 to permit specified counties to conduct the arraignment of accused felons via two way audio-video communication between the court and the jail as part of an experimental project of four years' duration. The statute requires the Judicial Council to report annually on policy issues raised by the project; the Legislative Analyst is to report on fiscal consequences.

The first annual report provided an historical perspective of the experiment, discussing the history of the statute, and the use of similar technology in courts of other states. It surveyed each county eligible to participate in the project to determine the project's status. In September 1986, only two counties were participating in the project, the San Bernardino County Municipal Court, Central and Valley Divisions, and Los Angeles County's Glendale Municipal Court. Courts in two other counties, Riverside and San Diego, were arraigning only misdemeanor defendants via television. The following counties, included within the experiment, had not begun the use of televised arraignments: Shasta, Orange, Contra Costa, and Santa Clara.

The comments of project participants, based on staff interviews, were included in the report, which concluded that no policy issues had yet arisen to be brought to the attention of the Legislature. It noted that in San Bernardino, the project of longest duration, no attorneys appeared at arraignments, a custom unchanged by the television project, and that in Glendale, where both defense and prosecution attorneys appeared, the experiment was too new for any policy issues to have been raised. The report concluded that, as experience with the project is gained, policy issues are likely to be raised that should be addressed by the Legislature.

Chapter 6

TEMPORARY COURT COMMISSIONERS

I. INTRODUCTION

This report is prepared pursuant to Government Code section 73362.1(f), which requires the Judicial Council to report to the Legislature on the use of temporary court commissioners in the Contra Costa County municipal courts.

The need for trained and experienced municipal court bench officers to perform "subordinate judicial duties"[1] has long been recognized by the Judicial Council.[2]

The council's recognition of the need for subordinate judicial officers to aid in the efficient and economical administration of justice in traffic cases has, however, been balanced, historically, by concerns that persons of suitable expertise be appointed to fill authorized positions, and that bench officers not engage in the private practice of law.[3]

In a 1984 report to the Legislature on the use of commissioners and referees in *superior* court, the council voiced concern over the expanded permanent use of commissioners and referees as temporary judges[4] and the council has traditionally favored the creation of full-time, paid judicial and subordinate judicial positions.[5] The preference for full-time service is based partially upon a recognition that expertise is attained through experience.[6] It is further supported by the desire to avoid conflicts or the appearance of impropriety created when an individual practices law before the same court in which he or she sits in a judicial role.[7]

Senate Bill No. 1752 (Boatwright, Stats. 1984, ch. 1147; effective January 1, 1985), authorized the use of temporary court commissioners in Contra Costa County, subject to the conditions set forth in Government Code section 73362.1.[8] That section authorizes "one position of temporary court commissioner" to serve each municipal court district in Contra Costa County. Section 73362.1(f) directs the clerks of each court to which a temporary commissioner is appointed to:

> [R]eport any complaints regarding the use of the temporary commissioner to the Judicial Council, and the Judicial Council shall report to the Legislature on or before January 1, 1987, as to whether it has received any evidence that the part-time nature of the employment of temporary commissioners has affected their acceptance by lawyers and litigants.

This report describes the Contra Costa County temporary commissioner program and addresses whether the Judicial Council has received any evidence that the part-time nature of the employment of temporary commissioners has affected their acceptance by lawyers and litigants.

II. DISCUSSION

1. Method of inquiry

In March 1985 the Administrative Office of the Courts notified the clerk-administrator of each Contra Costa County municipal court that a study of the temporary commissioner program would be conducted, and requested that any written or oral complaints regarding the use of the temporary commissioners be noted and either filed or referred directly to this office. In April 1985, after discussion with each court administrator, the courts were asked to maintain records or compile data to reflect the following:

a. The nature and scope of the use of temporary commissioners including the number of temporary commissioners appointed and the type and approximate number of hearings conducted by each;

b. The number of transfers/reassignments requested as to each temporary commissioner, including whether transfer or reassignment was requested by a lawyer or litigant;

c. The number of disqualifications as to each temporary commissioner;

d. The number and nature of complaints regarding the use of each temporary commissioner. Written complaints were to be filed and copies transmitted to the Administrative Office of the Courts upon request and the date and "nature" of oral complaints were to be noted. The "nature" of the complaints was to include whether the complaint was lodged by a lawyer or litigant.

Sample forms designed by the Clerk-Administrator of the Walnut Creek-Danville Municipal Court were distributed to each court for record-keeping purposes.

Staff visited Contra Costa County Courts during 1985 and 1986 to interview court administrators, collect data, and observe hearings conducted by temporary commissioners. Telephone interviews were conducted periodically throughout the project.

In September 1986, court administrators and temporary commissioners were asked to respond to questionnaires on the temporary commissioner program and comments on the program were invited from the judges and regular commissioners of each court.

2. Description of the Contra Costa County program

There are four municipal court districts in Contra Costa County.[9] Prior to January 1, 1986, two full-time commissioners served two courts each under authority of Government Code section 73362. Section 73362 was amended effective January 1, 1986, to authorize "four court commissioners for all districts in total."

a. Walnut Creek-Danville

The Walnut Creek-Danville Municipal Court began the use of temporary commissioners in March 1985. Announcements soliciting applications were circulated through the Bar Newsletter and posted at several public locations. Applications were screened by the judges of the court and individual interviews were conducted. Successful candidates were placed on a list and subsequent selections were made through a process of nomination by judges to supplement the original list as needed.

In August 1985 the 11 temporary commissioners on the Walnut Creek list averaged 16 years admission to the practice of law, with a low of 6 years and a high of 30 years. As the court gained experience with the temporary commissioner program, the list was reduced from 11 to 7.

The majority of those selected received up to one half day of orientation by the presiding judge and the court administrator, and several sessions of "hands on" instruction by the court commissioner during actual court hearings.

Assignments were to those tasks normally handled by the court commissioner: traffic arraignments (moving and parking), criminal infraction arraignments (animal and sign ordinances, etc.) and trials in traffic, criminal infraction and small claims cases.

Temporary commissioners were used on a rotating basis to fill in during the absence of the full-time commissioner or upon assignment of the full-time commissioner to a judge's calendar. Approximately 450 hours of courtroom time were provided by temporary commissioners between March 1985 and September 1986.

b. Mt. Diablo

The Mt. Diablo Municipal Court began the use of temporary commissioners in March 1985. Both the screening and training of the Mt. Diablo commissioners were conducted by the Walnut Creek court and the Walnut Creek list was adopted by the judges of the Mt. Diablo court.

Temporary commissioners were assigned on a rotating basis to hear traffic arraignments, traffic and small claims trials, civil law and motion matters and unlawful detainers and served when the regular commissioner was absent or assigned to a judge's calendar. Approximately 400 hours of service were provided between March 1985 and September 1986.

c. Bay

The Bay Municipal Court began the use of temporary commissioners in April 1985.

Advertisements for the position were mailed to all attorneys in the Bay Judicial District inviting resumes from those persons not practicing in the district or retired from active practice. Applications were reviewed by the judges of the court and a list of approved candidates was created. In August 1985, the eight temporary commissioners on the Bay list represented an average of 16 years admission to the practice of law, with a low of 7 years and a high of 31 years.

Training consisted of approximately four hours of orientation given by the presiding judge or the regular court commissioner, two or three days of in-court observation, and printed materials including copies of the bail schedule and a memorandum on special procedures.

Temporary commissioners were assigned to traffic arraignments and small claims and traffic trials on a rotating basis and used primarily when the court's full-time commissioner was assigned to "back-up" a judge. Approximately 1100 hours were provided by temporary commissioners between April 1985 and September 1986.

d. Delta

Delta Municipal Court began the use of temporary commissioners in August 1985.

The court solicited applications from local bar associations and retired public defenders and district attorneys, and resumes were submitted to the judges for approval.

Approved applicants attended training sessions given by the Walnut Creek-Danville Court, and received in-court training from the court's full-time commissioner and a packet of information on local forms and procedures.

Temporary commissioners heard walk-in traffic arraignments, traffic and small claims trials and orders of examination and served when the regular commissioner was absent or assigned to a judge's calendar. Approximately 200 hours were provided between August 1985 and August 1986.

All four courts recruited some highly qualified candidates in terms of experience and professional achievement. There was also considerable overlap in the four lists and some individuals served more than one court on a regular basis.

3. Summary of data collected

a. Disqualifications/transfers

Government Code section 73362.1(d) requires that prior to the commencement of any action or proceeding heard by a temporary commissioner, the

court must provide notice to each party or attorney of record of the entitlement to require reassignment or transfer of the case to a judge, court commissioner or referee. Under section 73362.1(b) temporary commissioners are also "subject to disqualification as provided for judges."

Responses from temporary commissioners to the September 1986 survey indicate that notice of the option to reassign or transfer was given in almost all cases.

From March 1985 to September 1986 the four municipal courts reported a total of 24 requests for transfer or disqualification.

b. Court observation

Hearings conducted by four temporary commissioners on traffic arraignment, traffic trial, and small claims calendars, were observed at random by staff of the Administrative Office of the Courts. Staff observed that each hearing was conducted in a professional and efficient manner and staff did not observe anything to indicate that temporary hearing officers were "unacceptable" to lawyers or litigants.

c. Complaints

Between March 1985 and October 1986, four complaints about temporary commissioners were forwarded by the courts to the Administrative Office of the Courts.

One small claims litigant complained that a temporary commissioner's attitude was "arrogant and demeaning" and his decision a "lapse of professionalism"; another small claims litigant complained that a temporary commissioner "hurried" her, acted in a manner "both prejudiced and unprofessional," allowed the opposing side more time to present its case and exhibited an intimidating demeanor; a participant in a traffic proceeding reported being humiliated by a temporary commissioner and stated that the commissioner had to ask the clerk's advice on a technical matter; and one enforcement officer complained that a temporary commissioner refused to impose a mandatory sentence and reversed his finding of guilty after being informed of the relevant Vehicle Code sentencing provision by the officer.

d. September 1986 questionnaires

Response to the temporary commissioner program by the clerk-administrators of the four Contra Costa Municipal Courts was favorable. From the administrators' perspective, the program alleviated case processing problems. No administrator indicated that the part-time nature of the employment of temporary commissioners affected their acceptance by lawyers or litigants.

Appeals from decisions made by temporary commissioners, as compared to those from decisions made by other bench officers, were reported as follows: "no noticeable difference"; "no recognizable difference"; "only three appeals filed" from decisions made by part-time commissioners; and "dramatically low."

The clerk-administrators' overall assessments of the program tend to reflect their concern with court efficiency and calendar management:

Our conclusion is that the program is immensely successful. The ability to summon temporary commissioners in the absence of the full-time commissioner has had an extremely beneficial impact on case processing. Judges of the court do not have to reduce their department operations to absorb traffic and small claims activities. Backlog development in traffic and criminal infraction cases is avoided since that department operates on a continuous basis. Because of the low, hourly pay scale for temporary commissioners, expenses are minimized and reflect considerable savings over the use of assigned judges.

* * *

Very good—crowded calendars are alleviated and protracted preliminary hearing cases are handled more effectively by having part-time commissioners handle traffic/small claims matters.

* * *

Being able to utilize per diem commissioners has simplified coverage of vacations and sick leave—eliminating need for written stipulations. Having individuals who have been familiarized with our automated system has simplified courtroom operations and also provides exchange of information between courts when same individuals sit in more than one court. This program could help provide back-up relief for judicial absences by having regular commissioner sit as pro tem *on juries, but cooperation is required from the prosecution and defense in obtaining stipulations.*

* * *

We have been able to have the same person sitting for several days at a time which provides continuity, and are able to pay these attorneys instead of asking for free assistance. Also, it is easier to cover these assignments when there is a list of people available who are willing to be on call.

Completed questionnaires were received from twenty temporary commissioners. Their overall assessment of the program was favorable and none believed that the part-time nature of his or her employment affected acceptance by lawyers or litigants.

The commissioners commented generally that the program appeared to be of benefit to the courts in alleviating congested calendars. Many remarked that the experience was personally rewarding. Several suggested that more use should be made of temporary commissioners to give the courts more flexibility. For example, it was observed that, assuming the temporary commissioner is qualified to handle misdemeanors or a general criminal arraignments calendar, it would appear reasonable that paid, sworn bench officers should handle any assignment a volunteer, unpaid temporary bench officer might be given.

Those commissioners who recommended improvements to the program pointed to a need for greater uniformity of procedure between courts, more instruction on practice and procedure in the form of classes or printed material, clearer guide-

lines on the usual range of fines and the use of traffic violator school, better communication between clerks and bailiffs for information, compensation based upon hours spent in the courthouse rather than hours sitting on the bench and more advance notice as to dates of service.

One commissioner suggested that at the present level of compensation (approximately $24/hour) the program remains an essentially *pro bono* enterprise and recommended that serious consideration be given to raising the present salary.

Finally, the presiding judges of two courts assessed the temporary commissioner program to be beneficial to the effective operations of the court.[10] Neither judge reported complaints about the program.

III. CONCLUSION AND RECOMMENDATIONS

From March 1985 through September 1986, temporary commissioners provided thousands of hours of service on high-volume calendar assignments. The four complaints received do not appear to raise substantial questions about the quality of that service, although they serve as a reminder that diligence is required in selecting, training, and reviewing the performance of temporary commissioners.

Two clerks and several temporary commissioners did allude to problems that may arise when a large rotating pool is used on a temporary basis. The clerks refer to the continuity provided by having the same person sit for several days at a time and the benefit derived from the use of persons familiar with the court's automated system. And the need for continuity and additional training and guidelines was expressed by several part-time commissioners who appear to have served the courts relatively infrequently. These comments suggest that a pool of part-time hearing officers should be limited so as not to dilute the positive effects of continuity, training and experience.

In summary, however, the Contra Costa County program appears to have achieved a successful balance between efficient court administration and high judicial standards where careful management standards were observed and specific safeguards were incorporated into the program. Those safeguards include provisions in the authorizing legislation that:

- a temporary commissioner is required to possess the same qualifications required of a municipal court judge;
- a temporary commissioner cannot practice law before any court of the district to which he or she is appointed;
- a temporary commissioner is subject to disqualification; and
- the parties to any proceeding before a temporary commissioner are entitled to transfer or reassignment.

In addition, training was provided for persons selected as temporary commissioners and a performance review process was established.

It appears that the success of any program utilizing temporary judicial officers will ultimately depend upon the quality, experience and expertise of the persons selected to fill authorized positions. It is therefore recommended that any future programs utilizing temporary bench officers incorporate an on-going training program and regular performance reviews, that a minimum amount of courtroom experience be required of every temporary bench officer prior to his or her service and that any pool of temporary hearing officers used on a rotating basis be small enough to ensure continuity of service and the development of professional expertise.

Finally, the conclusions drawn from this study are necessarily limited and narrowly focused in response to specific legislation. They should not be construed to favor the use of temporary judicial officers over the creation of full-time paid judicial positions.

These conclusions do reinforce the council's position that qualified and experienced persons should fill all authorized judicial positions and that the highest professional standards are essential where the rights of persons unrepresented by counsel are adjudicated.

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[1] See California Constitution, article VI, section 22.

[2] In 1970, the Judicial Council recommended that legislation be enacted to authorize the appointment of traffic referees in municipal courts (See Judicial Council of California Annual Report (1970) pp. 39–43; Gov. Code § 72400, added Stats. 1970). The council later recommended legislation which expanded the scope of a traffic referee's power in infraction cases. (See Judicial Council of California Annual Report (1975) pp. 29–34); Gov. Code § 72450 governing the appointment of traffic trial commissioners was sponsored by the Judicial Council and enacted in 1972 (see Judicial Council of California Annual Report (1973) p. 157). In 1984, the council proposed legislation to amend Government Code § 72450 to eliminate the necessity to obtain the approval of the Chairperson of the Judicial Council upon the appointment of a traffic trial commissioner (See Judicial Council of California Annual Report (1984) pp. 45–46).

[3] For example, traffic referees must be attorneys or former justice court judges with five years experience and must serve the court full-time or, if appointed to serve two or more courts, sufficient time with each to total full-time (Gov. Code, § 72400). Traffic trial commissioners must have the qualifications of a judge of the municipal court, serve full-time (but may be appointed to serve two or more courts) and must not engage in the private practice of law (Gov. Code, §72450).

[4] See Judicial Council of California, Annual Report (1984) pp. 35–44: whether the creation of "permanent" temporary judges would withstand constitutional scrutiny where a commissioner or referee was without the minimum number of years admission to the State Bar required of regular judges, without a specific duration of office or obligation to stand for election, not subject to investigation by the Commission on Judicial Performance, not required to decide all matters within 90 days before receiving a salary and not guaranteed retirement benefits.

[5] See Government Code Section 71042; 56 Ops. Atty. Gen. 315; Judicial Council of California Biennial Report (1953) p. 15; Judicial Council of California Annual Report (1972) p. 21.

[6] See Final Report on the Summary Traffic Trial Project, March 1974 (funded by The California Office of Traffic Safety and The National Highway Traffic Safety Administration): "A commissioner serving an extended period of time handling traffic cases will gain considerable expertise in the field." (at p. 25).

[7] See Judicial Council of California Annual Report (1972) p. 21; also, justice court judges, some of whom serve the courts on a part-time basis, may not practice law before any justice court in the county in which he or she resides. Government Code section 68083(a).

[8] Government Code section 73362.1 provides in part:

(b) A temporary court commissioner shall be appointed by the presiding judge of the court from a list of temporary court commissioners established and approved by a majority of the judges of that court. The temporary commissioner shall possess the same qualifications the law requires of a municipal court judge, and shall not engage in the private practice of law before any court of the municipal court district to which he or she is appointed, and is subject to disqualification as provided for judges.

(c) A temporary court commissioner shall receive, as sole compensation for such service, an hourly fee for each hour or fraction of an hour of service which is equivalent to the hourly wage of the first step in the salary range for full-time official municipal court commissioners in Contra Costa County, without any other benefit included in the compensation of any other municipal court officer or employee in Contra Costa County.

(d) A temporary court commissioner shall perform those functions conferred by law and assigned by the presiding judge. Before any action or proceeding is tried or heard by a temporary court commissioner, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner or referee of the court. The court shall, prior to the commencement of any such trial or hearing, provide notice to each party or attorney of record in the action or proceeding of this entitlement to require reassignment or transfer.

[9] Bay Judicial District (Richmond); Delta Judicial District (Pittsburg); Mt. Diablo Judicial District (Concord); and Walnut Creek-Danville Judicial District (Walnut Creek).

[10] Letter of October 3, 1986, from Presiding Judge John C. Minney, Walnut Creek-Danville Municipal Court; letter of October 7, 1986, from Presiding Judge John D. Hatzenbuhler, Mt. Diablo Municipal Court.

Chapter 7

DISCRETIONARY CHILD SUPPORT SCHEDULE

Civil Code section 4724(b), added by the Agnos Child Support Standards Act ("Agnos Act"), required that the Judicial Council adopt, by July 1, 1986, a schedule for setting child support above the minimum level also mandated by the act. The schedule is to be used by any court that has not adopted its own schedule.[1]

The Federal Child Support Amendments of 1984 provide that each state must establish guidelines for child support awards as a condition to approval of its state plan under Title IV-D of the Social Security Act (child support collection) and receipt of federal funding for its AFDC (Tit. IV-A) and child support collection programs. The guidelines may be established either by statute, administrative action or judicial action, and must be made available to judges who determine child support. The guidelines need not be binding. They must be adopted by October 1, 1987.[2]

These developments are part of a growing national trend towards greater standardization of child and spousal support awards which seeks to use schedules or guidelines as a means toward this goal. (E.g., Civ. Code, § 4720(b): "The current method of setting child support awards has led to substantial variation in these awards among families with similar circumstances and resources.")

Pursuant to the requirements of section 4724(b), comments were solicited on what factors should be considered in developing California's schedule. (Copies of the request were sent to the lay and legal press.) In addition to suggesting factors to be considered, several of the comments received suggested that the council should (1) consider initially adopting a schedule based on the existing county schedules and (2) begin a two year study to evaluate the council's schedule and others in use. The study would consider the following:

1. How well each schedule is accepted by the bench, bar and litigants.
2. The reasons courts depart from the schedule and the effect of the departures on the overall amount of child support awarded.
3. Whether the schedule promotes the setting of child support awards that meet the cost of raising the child and that are actually paid.
4. Whether the schedule results either in more agreement on the amount of child support or in shorter contested hearings.
5. What factors are used by the various schedules.
6. Which factors used in setting child support are considered most relevant by judges, attorneys and litigants.

On March 3, 1986, a request for further comment was circulated on the specific proposal that the Judicial Council consider adopting one of the schedules now in use, pending a full study of the effect of child support schedules under the Agnos Act. The proposal received much support. Many of those responding suggested the adoption of specific existing schedules.

I. CURRENT SCHEDULES AND COMMENTS

The schedule most often recommended for council adoption was the so-called "new Santa Clara guidelines."[3] It was recommended to the Santa Clara Superior Court by the Family Law Section of the Santa Clara County Bar Association based on a study made by a committee to revise the old Santa Clara County schedule.[4] The new Santa Clara guidelines have been adopted in a number of other counties including Alameda, Contra Costa, Imperial, Marin, Nevada, Placer, San Bernardino, San Francisco, San Mateo, Santa Cruz, Sonoma, Sutter and Ventura.

The new Santa Clara guidelines were supported by a number of attorneys and judges who have worked with them, although they are subject to some criticism. Those supporting the guidelines include two family law commissioners and seven attorneys. The Standing Committee on Support—North of the Family Law Section of the State Bar recommended the adoption of the new Santa Clara guidelines.

Those who responded gave several reasons for supporting the new Santa Clara guidelines, including that its figures are reasonably close to the true cost of child-rearing, that it promotes uniformity, and that it aids on pro-rata sharing of transportation, child care, and medical and dental expenses.

Some of those responding criticized the new Santa Clara guidelines as being too high, and urged the council not to adopt these guidelines.

Lenore Weitzman, Professor of Sociology at Stanford University and author of the book *The Divorce Revolution*, criticized the amounts on the Santa Clara schedule from another perspective. She stated the total for child and spousal support is adequate but that too often spousal support is either not awarded or is awarded for too short a period. This results in an award which is too low. She urged the council to adopt a modification of the Santa Clara guidelines specifying as child support the guideline amount for spousal and child support combined.

The other major schedule in use was first adopted by the Sacramento Superior Court and is known as the Sacramento Schedule. It applies the percentage factor from the Agnos Act (18 percent for one child, 27 percent for two children, etc.) to the combined income of both parents. If the resulting amount is not above the current welfare minimum for that number of children, that amount of support is allocated between the parents according to their income. If the amount is greater than the welfare minimum, the average of that amount and the welfare minimum is allocated among the parties.

The Sacramento Schedule is used also in Tulare and Yolo Counties. Its use was advocated by one attorney who responded to the March 3 invitation to comment.

The old Santa Clara guidelines are used by several counties, including Fresno, Kern (in a modified form), and Stanislaus. No response was received in favor of or in opposition to this schedule.

II. CALIFORNIA COMMISSION ON CHILD SUPPORT

In April 1983, Governor George Deukmejian established the Commission on Child Support Development and Enforcement. The commission held a number of meetings and, in January 1985, issued a final report covering a variety of child support issues, including schedules.

The commission recommended adoption of the Minnesota schedule, which uses a percentage of only the noncustodial parent's net income in determining an amount to be paid. The commission urged the adoption of this schedule because of five factors:

1. It is easy to understand and use.
2. The ability to pay is balanced against the needs of the child.
3. It is effective and accepted in actual use.
4. Priority is placed on the first family.
5. It does not penalize the children of the custodial parent for that parent's decision to work.

The commission recognized the conflict between its position and that taken by the then recently passed Agnos Act, as follows:

> The Commission acknowledges the recent passage of the Agnos child support bill, AB 1527. This bill was examined very thoroughly by the Subcommittee on Uniform Schedule of Child Support. The Commission recognizes the long, hard efforts it took to pass this bill, and the intent of its author to bring some degree of equity and sanity to the way in which support awards are determined in this state.
>
> Due to the Commission's firm dedication to support enforcement and the fact it was not limited to compromises, the Commission strongly recommends its own schedule of child support as a further step in the right direction.[5]

III. SCHEDULES IN OTHER STATES

A number of other schedules are in use in various other states.[6] As discussed in one of the reports on child support schedules,[7] there does not appear to be one clearly correct schedule which works in all cases and all locations. The task of creating a schedule consists of weighing conflicting goals and demands and attempting to forge a workable solution.

The Delaware Family Court uses a formula, known as the Nelson formula, which allocates income based on the following criteria:

1. Parents are entitled to keep sufficient income for most basic needs and to facilitate continued employment.

2. Children are entitled to any amounts over that amount until their basic needs are met.

3. When there is sufficient income to cover the basic needs of parents and dependents, children are entitled to share in the additional income.

Wisconsin uses a percentage of income standard in determining child support. Support is set at a specified percent of the noncustodial parent's gross income (17 percent for one child; 25 percent for two; 29 percent for three; 31 percent for four; and 34 percent for five or more).

Washington has a set of guidelines based on the net income of the parents and the number and ages of the children. The guidelines also consider split custody arrangements and child care expenses.

Colorado has adopted a schedule based on the so-called Income Shares Model under which the child should receive the same proportion of parental income that he or she would have received if the parents lived together. The schedule comes with several worksheets as well as instructions.

IV. FACTORS CONSIDERED BY SCHEDULES

Based on the comments received, it would appear that, among the variety of schedules in use today, the new Santa Clara guidelines have the most support among those who responded to the request for comment. As shown by the comments, however, there is some fairly strong criticism of that schedule. The Judicial Council's adoption, on an interim basis, of the formula used in the Santa Clara guidelines, was taken with appropriate adjustments, based on comments suggesting factors that should be considered in reaching a decision on a child support award. The guideline can be found at the end of this chapter.

It may be useful to distinguish between the various factors that go into the formulation of the scheduled amounts (e.g., income of the parties, amount of custodial time), and the factors which may, in appropriate cases, result in an adjustment of the tentative formula amount (e.g., other children and special needs of the child). The following discussion examines these factors and the comments that were received concerning them, discussing first those used in formulating the schedule amount. Following the discussion of each factor, the course of action taken is noted and cross-referenced to the guidelines where appropriate.

While all schedules use some of these factors, there is debate as to how each should be used. There is also disagreement on the specific effect each factor should have. In many cases, a schedule may note that a judge might wish to consider the effect of a particular factor, although it is not reflected in the scheduled formula.

Income of parties

All schedules consider the income of one or both of the parents in setting a child support figure. There are many differences in what income is considered, and these differences are reflected in the comments received on how income should be handled.

One commissioner suggested that earning capacity rather than income should be considered. The new Santa Clara guidelines do permit ignoring elective decreases of income in modification requests. A comment was added to the guideline that earning capacity should be considered in appropriate cases. (See guideline, section 6.c.(2).)

Some schedules [8] consider only the income of the noncustodial parent in determining the amount of child support. This view was urged by the California Child Support Commission and supported by one attorney. Proponents of this view suggest that the custodial parent (and the children) should not be penalized with a lower support award becauses the custodial parent is working. Whatever the merits of this view, it would appear to be contrary to the philosophy of the Agnos Act which states that it is the obligation of both parents to support a child and both parents' income should be considered. (See guideline, section 3.)

Child care expenses have also been considered. One attorney urged that the guideline permit a full deduction from the custodial parent's net income of the costs of child care or that the child care costs be allocated between the parents in proportion to income. This is the position taken by the new Santa Clara guidelines. (See guideline, section 8.a.)

Several of the schedules use the gross income of the parties rather than their net income. Both the Agnos Act and the new Santa Clara guidelines use the net income of the parties in determining the amount of support. The Agnos Act specifies a limited number of deductions and states these are the only deductions allowed. Other deductions, e.g., child care, are permitted by the new Santa Clara guidelines. The adopted guideline uses net income with specified deductions. (See guideline, section 6.)

One attorney suggests that the net income figure for each parent reflect a deduction for taxes only in the amount that parent must actually pay rather than the more typical situation of permitting each parent a deduction for taxes based on filing status and number of legitimate exemptions. In most cases the actual net income is reflected by filing status and number of exemptions although in cases of self-employed persons and persons with either substantial tax shelters or tax exempt income an adjustment would appear appropriate. (See guideline, section 7.)

Several attorneys suggested that an increase be made to the income of self-employed individuals to reflect such company-paid benefits as insurance, vehicles, and meals. These factors are noted in the guidelines and are expanded to include such benefits whether provided to a self-employed individual or an employee. The full range of benefits included is left to the discretion of the judge in the individual case. (See guideline, section 6.c.(1).)

The final comment made on income involves cases of seasonal employment which results in widely fluctuating income. This is also treated in a note to the guidelines, with the application left to the discretion of the judge. (See guideline, section 12.)

Costs of raising a child

Many of the schedules state they base the amount of support on the actual amounts spent on children by parents.[9] This is the position taken by the adopted guideline section 5, as derived from the new Santa Clara guidelines. There have been many studies done on the costs of raising children.[10]

Application of the various studies to child support schedules has been criticized because the studies do not take account of cost variations for split households:

The allocation of the family's resources among its members is changed when the divorce occurs. There are two households instead of one, and more of the family's income must be spent on two shelters than was previously spent on one. As a result, the money available for the personal consumption of each of the individuals in the family, including the children, is necessarily reduced.[11]

Another writer on this subject urges that the courts must also consider the additional costs to the custodial parent:

Account must be taken, for example, of the additional child care costs that are incurred when children live with one adult. . . . [D]ay care expenses alone can exhaust child support awards . . . [C]ustodial parents have two sources of increased service needs. First, chores formerly performed by the noncustodial parent must now be handled in some other fashion. Second, the caretaker herself will have less time and energy to devote to household tasks if she now works longer hours outside the home.[12]

Three attorneys urged that any schedule consider the costs of maintaining two households, and one attorney urged against the consideration of this factor. The attorney who designed the new Santa Clara guidelines, reported that he accepts the view that there is no good information on the cost of two-home families, although some evidence suggests that the amount spent on children remains the same in most low- and middle-income families.

It would appear that presently there is insufficient data to determine whether this factor should be included in the schedule. The guidelines, therefore, mention this factor and permit judges to take it into account in appropriate cases. (See guideline, section 10.)

Time spent with each parent

The new Santa Clara guidelines use the time spent with each parent as a factor in determining the amount of child support paid. They allocate a total figure for support based on the combined income of both parents, with contribution from each parent based on that parent's net income. Child support paid is allocated to each parent based on the time the child spends with that parent. The schedule amounts are based on a presumption that the child spends 20 percent of his or her time with the noncustodial parent and require adjustment if the actual time varies from this by 10 percent in either direction.[13]

The use of this factor in a guideline was specifically endorsed by several attorneys, and is incorporated in the adopted guideline (section 1).

Age of child

In 1984, the council, pursuant to a legislative mandate, adopted an Age Increase Factor to be used in child support awards.[14] Discussion with many family law practitioners and judges indicates that the table is used infrequently.

The age of the child is not considered by any support schedule in common use in California although it is used in some other states, notably Washington.[15] The data concerning age-related changes in the cost of raising a child suffers from the same deficiency as the other data on the cost of raising a child, in that conclusions must be extrapolated from studies of intact families.

Age as a factor in setting child support is one of the factors most commented upon in the schedule. One commissioner, seven attorneys, and a divorced mother with custody of two children urged that an age component be included in the guideline. The Age Increase Factor table reflects a conclusion that, generally speaking, child related expenses increase as the child grows older. The adopted guideline expressly urges consideration of the Age Increase Factor (section 11).

New partners

The new Santa Clara Schedule provides that an "elective increase" in the payor's expenses will not generally be considered as grounds for reduction of support. Elective increases include "expenses in connection with a new marriage or live-in companion."[16] On the other hand, "[t]he income of a new spouse or live-in companion will be considered to the extent permitted by current statutes and case law."[17]

The Agnos Act permits consideration of a new partner's income "to the extent that the obligated parent's basic living expenses are met by the spouse or other person, thus increasing the parent's disposable income and therefore his or her ability to pay more than the mandatory minimum child support award established by this chapter."[18]

The general view, nationwide, is that while stepparent income is not considered in establishing the level of child support payments, "some states have made provision for considering the effect of shared expenses, thereby increasing the child support obligation of the parent who has remarried or is cohabiting."[19] The consideration of income made available from new partners is generally supported in California law.[20]

One attorney wrote that the community property interest of the current spouse in the paying parent's net monthly income, and vice versa, should be considered in any schedule along with the support obligation to a current spouse. Another attorney suggested that any schedule should have a consistent method of handling the income of new spouses, live-ins and similar arrangements.

The current treatment of the income of and support obligation to new partners appears to be highly variable. The new Santa Clara guidelines, in modification cases, provide some broad overview of how to handle this matter.[21] The adopted guidelines

permit consideration of income and expense attributable to a new partner or child. (See guideline, section 6.c.(3).) Refinement of this issue will await further study of the practice under the schedules which became effective on July 1, 1985.

New children

Some states have taken the position that creation of new children is a voluntary act and therefore the pre-existing children should take priority in establishing a support obligation.[22] This view is not generally held in California. The Agnos Act itself recognizes the obligation to other children [23] and the new Santa Clara guidelines recognize this as well.[24] Two attorneys urged that any schedule at least note the obligation of either parent to support other children.

There appears to be considerable debate about how best to equalize the child support when children or multiple relationships are involved. This matter is currently a matter of both legislative and judicial debate and would appear to be best solved in those arenas. (See guideline, section 6.c.(3).)

Cost of living

The schedules currently in use in California were designed for use in a particular county although at least the new Santa Clara guidelines were presumably based on nationwide data about the amount of money spent on raising children. Seven attorneys suggested that any schedule take account of the difference in the cost of living between counties. This view is supported by the *Guideliner,* a publication of the California Family Law Report, which suggests that differences in cost of living can be determined using factors such as income or housing cost.

The view taken by the *Guideliner* is that cost of living is normally reflected by per capita income. If this is so, a schedule which based a child support award on a percentage of the income of the parties would accurately reflect the cost of living without the need for adjustment from county to county so long as the parents lived in the same county.

If the paying parent lives in a county where the cost of living (and income) is lower than the county in which the child lives, recognizing the child's cost of living by ordering the paying parent to pay a greater percentage of his or her income than would be the case if the paying parent lived in the same county as the child can work a substantial hardship on that parent. If the paying parent lives in a county where the cost of living (and income) is higher than the county in which the child lives, ordering the paying parent to pay based on his or her higher income can be viewed as either a windfall to the child or permitting the child to share in the standard of living of both parents. The question of the effect of the cost of living on child support awards is a complex issue which should be left to the discretion of the judge in each case. There may be a discernable pattern which can be reduced to a rule based on a future study of actions taken under the new schedules.

Other factors

Some commentators suggested that other factors be included in the guideline. The factor most often mentioned is special need of the child, whether medical, psychological, or educational. (See guideline, section 9.) It was also suggested that the cost of transportation for visitation should be included in the guidelines and that the greater burden of such transportation should be imposed upon any parent moving from the local area.[25] (See guideline, section 8.(b).)

V. PROBLEMS WITH FULL COMPLIANCE WITH AGNOS ACT

The Agnos Act requires that the amount awarded pursuant to a discretionary child support schedule be not less than the minimum amount set by that act.[25] This can best be accomplished by providing that where the amount specified by the schedule is lower than the amount specified by the Agnos Act, the amount specified by the Agnos Act shall be awarded. While the new Santa Clara guidelines attempt to delineate areas where the amount of support awarded is less than the amount of the Agnos Act, this is not always possible because of the difference in treatment of certain items of income and expense. For example, the new Santa Clara guidelines permit deduction of job-related expenses from income in appropriate cases,[27] while the Agnos Act does not permit this in determining minimum support.

VI. FORMAT OF SCHEDULE

Several suggestions were made that the guideline adopted by the council consist not of specific numbers but of a range for each set of income levels. The advantage of having a range rather than a specific number is that it allows a judge to adjust the various individual factors involved in a particular case without having to state reasons. While it is true that the same result could be accomplished by setting a specific figure at what would be the low end of the range, this might result in an award which is too low if a judge did not use an amount higher than the scheduled amount in most cases.

It would appear that stating a guideline in terms of a range rather than a specific number would

result in a fairer child support award without the added burden on trial court judges requiring them to state reasons whenever the award is on the lower end of "average." A fair range would appear to be 15 percent above or below the figure which would otherwise be obtained using the new Santa Clara guidelines. This would provide needed flexibility for trial judges while preserving the relative certainty of a guideline.

The new Santa Clara guidelines are generally expressed as a number of tables showing an amount for child support (and an amount for spousal support) for a variety of different income combinations and number of children. The tables were derived from a formula which itself was derived from the raw data.

Many different sources are currently available which display the actual amounts for child support using the Santa Clara guidelines. Some of these sources are either free or low cost (e.g., the Santa Clara Superior Court rules and the Placer Superior Court rules) while others are more expensive and more extensive (e.g., the *Guideliner*). The council's guideline is available in the form of a mathematical formula with appropriate cross-reference to the Santa Clara guideline tables. (This cross reference appears as section 3 of the adopted guideline.) In addition, a booklet is available from the Administrative Office of the Courts expressing the child support formula in tabular format.

VII. NEED FOR FURTHER STUDY

As mentioned in the introduction to this report, the schedule adopted by the council should be considered interim. Beginning July 1, 1986, all courts are required to use either their own or the council's discretionary child support guidelines when setting an amount for child support. Previously there was no such requirement.

It would appear appropriate for the Judicial Council to conduct a further study of the use of discretionary schedules in setting child support. The study might result in recommended changes in the child support schedule.

Division VI is added to the Appendix to the California Rules of Court, effective July 1, 1986, to read:

DIVISION VI
DISCRETIONARY CHILD SUPPORT
(Civil Code, § 4724(b))

1. [Formula] Pursuant to Civil Code section 4724(b), a guideline for discretionary child support awards above the mandatory minimum of the Agnos Child Support Standards Act may be determined as follows:

$$CS = TCS \pm .15\ (TCS)$$
$$TCS = K\ (HN - (H\%)\ (TN))$$

2. [Definitions]

(a) The components of the formula are:

CS = child support range
TCS = tentative child support
K = adjustment factor for different levels of income
H% = percentage of time high earner has children (use decimal, e.g., 20% = .20)
HN = high earner's net monthly income
TN = total net monthly income of parties

(b) To compute net income, see subdivisions 6 and 7.

(c) "K" changes as combined income increases as follows:

Total Net Income Per Month	*K*
$0–1,667	K = .26
$1,668–4,999	K = .2 + 100/TN
$5,000–10,000	K = .16 + 300/TN
Over $10,000	K = .12 + 700/TN

(d) If the child support range is negative, the custodial parent pays.

(e) For more than one child, multiply TCS by:

2 children	1.5
3 children	2
4 children	2.25
5 children	2.5
6 children	2.625
7 children	2.75

3. [Santa Clara guidelines] Any schedule based on the child support guidelines in effect in Santa Clara County on July 1, 1986, should yield the same tentative child support obtained by the formula.

4. [Use of Agnos minimum] In the event the amount of support calculated by this formula is less than the minimum amount mandated by the Agnos Child Support Standards Act, the amount mandated by that act shall be used.

5. [Factors considered] The formula is based on studies of the costs of raising children. The factors considered are the combined net income of the parties, the amount required to support the child, and the time the child spends with each parent.

6. [Net income defined] Net monthly income is determined by making appropriate deductions and adjustments to gross income, as follows:

(a) The following deductions shall be made:

(1) Social Security (FICA) and State Disability Insurance (SDI) actually deducted from salary or paid by a self-employed person; these deductions should be averaged on an annual basis.

(2) Federal and state income tax withholding, or estimated tax payments, to the

extent they represent actual or potential income tax liability.

(3) Mandatory retirement contributions in lieu of Social Security.

(b) The following deductions are within the court's discretion:

(1) Mandatory retirement contributions in addition to Social Security. (Voluntary retirement contributions should not normally be deducted from gross income.)

(2) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(c) The following adjustments to gross income are within the court's discretion:

(1) Employee benefits or self-employment benefits maybe included in net income, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(2) Earning capacity may be considered in place of actual income.

(3) The court may consider, to the extent permitted by law, the income earned by new partners of either parent and the expenses related to the new partner or to other children of that parent.

7. [Income tax consequences] The formula does not consider that support payments can, and often do, result in changes in income taxes paid. The court may consider these and any other factors reflecting the true tax status of either party.

8. [Additional support amounts: expenses related to child support]

(a) Child care costs related to employment or reasonable necessary education or training for employment skills should be shared in accordance with the net income of the parties.

(b) Travel expense for visitation should be shared in accordance with the net income of the parties, unless this creates an unreasonable hardship on one parent.

(c) Health care and health insurance costs for children should be shared in accordance with the net income of the parties, or, when appropriate, may be credited to the payor's obligation for child support.

9. [Special needs] The court may order additional support amounts subject to the paying parent's ability to pay, for the special educational, medical, or other needs of a child.

10. [Additional costs] When appropriate, the court should consider the added cost of maintaining two households. The court should also consider the added cost on the custodial parent resulting from having work done by a paid third party that is normally done by the parents in a two-parent household.

11. [Age increase factor] The court should consider the age of the child in relation to the amount of support awarded (see the Age Increase Factor Table (California Rules of Court, Appendix, Division V)).

12. [Seasonal or fluctuating income] The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.

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[1] Civil Code section 4724(a) reads in part: "In setting a higher level of child support, the court shall be guided by the criteria set forth in . . . state and local guidelines. . . ." Section 4724(d) provides: "In setting a level of child support below the applicable level in the discretionary guideline in use in a county the court shall state its reasons, on the record, citing the documentation of any underlying facts and circumstances for the award."

[2] Public Law 98-378 amending Title IV-D of the Social Security Act. The applicable statutory requirement may be found in section 467 of the act and implementing regulations in 45 C.F.R. section 302.56.

[3] The Santa Clara Superior Court has also adopted some informal guides for the use of the new Santa Clara guidelines, called "Rules of Thumb."

[4] The original charge of that committee was to consider the issues of shared custody and maintaining second houses.

[5] Report of the California Commission on Child Support Development and Enforcement, p. 65.

[6] Several good overviews of the schedules of other states exist. See, e.g., Thompson and Paikin, *Formulas and Guidelines for Support,* (1985) 36 Juv. and Fam. Ct. J. 33; Williams, *Child Support and the Costs of Rearing Children: Using Formulas to Set Adequate Awards,* (1985) 36 Juv. and Fam. Ct. J. 41; and Williams, *Development of Guidelines for Establishing and Updating Child Support Orders: Interim Report,* June 7, 1985, Institute for Court Management (hereafter Williams, Guidelines).

[7] Williams, Guidelines, *passim,* esp. pp. 100–104.

[8] E.g., Minnesota and Wisconsin.

[9] See, e.g., Santa Clara Superior Court rule 17, Appendix A: "The Schedule is based on studies done on the costs of raising children (percentage of net income)."

[10] A bibliography of much of the literature prior to the late 1970's can be found in Eden, *Estimating Child and Spousal Support,* (1977) Western Book Journal Press. The classic later study is Espenshade, *Investing in Children: New Estimates of Parental Expenditures,* (1984) Urban Institute Press. The later literature is analyzed in Williams, Guidelines, *supra.*

[11] Eden, *op. cit. supra* at pp. 4–5.

[12] Bruch, *Developing Standards for Child Support Payments: A Critique of Current Practices,* (1982) 16 U.C. Davis L.Rev. 49, 54–55.

[13] See Santa Clara "Rules of Thumb," rule 3.

[14] See Division V of the Appendix to the California Rules of Court.

[15] Washington divides children into three age groups, below 6 years, 7–15 years, and over 15 years.

[16] Santa Clara Superior Court rule 17(I)(6)(b).

[17] Santa Clara Superior Court rule 17(I)(6)(d). See also "Rules of Thumb," rule 1a.

[18] Civ. Code, § 4720(e).

[19] Williams, Guidelines, *supra*, pp. 46–47.

[20] See discussion in Bruch, *op. cit. supra* at p. 60.

[21] Santa Clara Superior Court rule 17(I)(6)(d). See also "Rules of Thumb," rule 1, for original award and modification cases.

[22] Williams, Guidelines, p. 43.

[23] The Act permits deduction from gross income of child support actually being paid (Civ. Code, § 4721(c)(5)) and permits consideration for a "hardship" deduction of the costs of other dependents of the parent (Civ. Code, § 4725(b)).

[24] Santa Clara Superior Court rule 17(I)(6)(b)(1) and (2).

[25] See Santa Clara Superior Court rule 17(I)(4)(b)(b) providing for proration of the amount, travel expenses and "Rules of Thumb," rule 6.

[26] Civil Code section 4724.

[27] Santa Clara Superior Court rule 17(I)(2)(d).

Chapter 8

SENTENCING PRACTICES ANNUAL REPORT

I. INTRODUCTION

California's determinate sentencing law, in Penal Code section 1170.6, requires the Judicial Council to "continually study and review the statutory sentences and the operation of existing criminal penalties" and report its findings to the Governor and Legislature. It also requires reports on proposed legislation affecting felony sentences.

Reports on bills affecting felony sentences are forwarded to the Governor and Legislature during each legislative session by the Administrative Director of the Courts under authority delegated by the Judicial Council.

Summaries of the determinate sentencing law (Stats. 1976, ch. 1139, as amended) and of the Judicial Council's responsibilities under it have appeared in previous annual reports.

II. IMPACT OF THE LAW ON JUDICIAL SYSTEM AND SENTENCING PROCESS

In previous reports, it was noted that coincidentally with the July 1, 1977 operative date of the determinate sentencing law, dispositions by trial began to decrease and guilty pleas increased relative to total dispositions in superior courts, and it was suggested that the change might be related to the new law. Data for 1985–86 show that guilty pleas increased an additional 2 percentage points, to 87 percent of total dispositions. Trials declined another 1 percent to 7 percent of total dispositions. Trials, therefore, are now about 10 percentage points lower than the 17 percent of total dispositions before determinate sentencing.

There were only 6,148 jury and court trials combined, almost the same as the previous year's total of 6,112, despite an increase of 13,193 in total dispositions. Even more striking, in the 10 years since 1975–76, felony trials have decreased 2,340 (−28 percent) while guilty pleas increased 41,055 (+117 percent) and total dispositions increased 37,677 (+75 percent).

The substantial reduction in felony trials in favor of guilty pleas continues to reduce the average time for disposition of criminal cases in superior courts, even after allowing for an increase in the time for sentencing proceedings under the determinate sentencing law.

Superior court time savings are offset, to a significant degree, by increased appellate workload. A recent study indicated that sentencing errors are the greatest single cause for reversals on appeal.

While the trend toward more dispositions by guilty plea is reviewed here in terms of decreased superior court workload (and increased appeals), this significant decrease in dispositions by trial has policy implications going to the nature of the criminal adjudication process.

III. LENGTH OF SENTENCES

The 1986 Annual Report included the most recent data available on sentence length.

Consistent with a pattern noted previously by the Board of Prison Terms, it appears that courts routinely impose sentence enhancements that are charged and proven by the prosecution; but that factually supportable enhancements are frequently not charged, or are dropped without being proven:[1]

Use of firearm	*Factually Supportable*	*Charged and proven*	*Imposed (% of charged and proven)*
Pen. Code § 12022.5	2,384	1,509–63.3%	1,258–83.4%
Infliction of great bodily injury Pen. Code § 12022.7	1,746	550–31.5%	405–73.6%
Served prior nonviolent prison term	5,031	1,102–21.9%	779–70.7%

[1] Data on the number of cases in which these enhancements were factually supportable, charged and proven, and imposed, courtesy of the Board of Prison Terms, for persons received in prison in fiscal 1983–84.

CRIMINAL CASE DISPOSITIONS IN SUPERIOR COURTS

Fiscal Year	Total Dispositions *	Pretrial			Total Trials
		Total Pretrial	Guilty Pleas	Other Pretrial	
	NUMBER				
1976–77	49,102	41,007	35,089	5,918	8,095
1977–78	49,003	41,510	35,787	5,723	7,493
1978–79	49,264	42,499	36,586	5,913	6,765
1979–80	51,281	44,924	38,690	6,234	6,357
1980–81	58,314	51,826	45,082	6,744	6,488
1981–82	60,998	53,860	47,664	6,196	7,138
1982–83	67,261	59,461	52,933	6,528	7,800
1983–84	[R] 66,535	[R] 59,825	[R] 54,217	[R] 5,608	6,710
1984–85	[R] 74,591	[R] 68,479	[R] 63,121	[R] 5,358	[R] 6,112
1985–86	87,784	81,636	76,013	5,623	6,148
	PERCENT				
1976–77	100	84	72	12	16
1977–78	100	85	73	12	15
1978–79	100	86	74	12	14
1979–80	100	88	75	12	12
1980–81	100	89	77	12	11
1981–82	100	88	78	10	12
1982–83	100	88	79	10	12
1983–84	100	90	81	8	10
1984–85	100	92	84.6	7	8
1985–86	100	93	86.6	6	7

* Includes cases resulting in acquittal or dismissal or misdemeanor convictions.
[R] Revised.

Chapter 9

TRIAL COURT COSTS AND REVENUE ESTIMATES

This report estimates California trial court costs and revenues for fiscal year 1986–87 and features assorted financing data concerning the state judicial system. The procedures followed in developing the 1986–87 estimates are essentially the same as those in last year's report.

I. DEFINITION OF TRIAL COURT COSTS

Trial court costs include costs designated in county budgets for superior, municipal and justice courts, the county clerk's office and bailiffing personnel. Some budget categories have required further determination. For example, grand juries and pretrial release programs are excluded from trial court costs. However, budget programs for court appointed private counsel are included in trial court costs.

Countywide indirect costs attributable to court budget activities are then calculated and applied. Indirect costs include county government functions, such as a personnel or purchasing office, whose costs are attributed to the courts by local prorated estimates.

Also included within total cost is the state's contribution to the trial courts in the form of superior court judges' salaries and judges' retirement. Counties receive state block grants and reimbursement for specific legislative mandates as subvention payments.

Therefore, these costs represent the total operational costs of the trial courts. The only category of costs not included is capital outlay expenditures for such purposes as site acquisition and construction of new court facilities.

The trial courts, of course, are only one part of justice system costs at the county level. Other activities that interact with the courts but are not included in this definition of court costs are public defender, district attorney and probation services.

Eight-County Cost Survey

Local trial court cost estimates are based on a survey of current court costs in eight counties. The results are extrapolated into statewide totals. The counties surveyed are Alameda, Fresno, Los Angeles, Orange, Sacramento, San Mateo, Santa Clara, and Ventura. Current budgets (1985–86) from those counties were obtained and carefully reviewed along with supplemental data supplied by county budget, personnel, and auditor offices.

The superior courts in the eight survey counties have 476 authorized judicial positions comprising 60.9 percent of the total superior court judicial positions in the state for 1985–86. Local 1985–86 costs in these eight counties for superior courts including county clerks, bailiffs and indirect costs totaled $227.0 million. When this amount is extrapolated statewide and added to state assistance the result is 1.08 percent below the 1985–86 estimate published last year. The effect of the 1.08 percent decrease on last year's 1985–86 superior court estimates are set forth on attachment A-2 entitled *Revised* 1985–86 Trial Court Cost Estimates.

There were 41 municipal courts in the eight survey counties with 399 authorized judicial positions comprising 62.0 percent of the total judicial positions in all municipal courts. The sum total of local 1985–86 municipal court expenditure estimates in these eight counties totaled $216.7 million. When this amount is extrapolated statewide and added to state assistance the result is 1.75 percent below last year's 1985–86 cost projection. The effect of the 1.75 percent decrease on last year's 1985–86 municipal court estimates are set forth on attachment A-2 entitled *Revised* 1985–86 Trial Court Cost Estimates.

1986–87 Cost Adjustment

The 1986–87 estimated trial court costs are presented on attachment A-1. Total 1986–87 trial court costs are 12.04 percent above the revised 1985–86 estimates on attachment A-2. The county share of trial court costs is 11.51 percent above the 1985–86 revised estimates. The 11.51 percent adjustment represents the average annual increase of trial court expenditures in the eight survey counties over a ten year period, 1975–76 through 1984–85, as reported in the State Controller's *Report of Financial Transactions*. The state share of estimated trial court costs is from the 1986–87 Governor's Budget and can be examined in more detail on attachment A-5.

II. COST PER JUDICIAL POSITION

Trial court cost data is arranged so that total trial court costs are apportioned among total judicial positions for municipal and superior courts (see attachments A-1 through A-4). Total judicial positions includes judges, referees, and commissioners. Therefore, each judicial position represents an equal share of total trial court costs.

The cost per judicial position includes not only the salary and benefits for the judicial position itself but also a proportionate share of all costs of nonjudicial positions, services and supplies and countywide indirect costs attributable to the courts. Finally, the cost of a bailiff and a court reporter position are added to the above to provide the total costs assignable to each judicial position.

The division of trial court costs into annual costs per judicial position allows for a further breakdown into costs per judicial case related minute, hour and day as illustrated in attachment A-3 and A-4. This is possible because of data accumulated by the Judicial Council weighted caseload studies, such as the minutes per year and days per year that are available for case related work for the average judicial position. This type of detail is very useful when estimating the additional court costs that may be required by a legislative proposal that would add minutes or hours of time to a judicial proceeding or impose a new judicial duty.

Justice court costs are not presented in the same detail as superior and municipal court costs because they account for only a small portion of the workload of the trial courts. Also, nearly all justice court judges are part-time and a cost per judicial position would not be applicable. Therefore, justice court costs are presented as a lump sum amount, approximately equivalent to their share of the lower courts workload.

III. COST COMPONENTS

Trial court cost data has been segregated into six cost categories: judicial salaries and benefits; nonjudicial salaries and benefits; services and supplies; indirect costs; costs for court reporters; and costs for bailiffs. A brief description of these court cost components follows.

1. Judicial Salaries and Benefits

Judicial salaries are the annual statutory salaries for municipal and superior court judges as of the latest authorized adjustment. The state share of superior court judges salaries is included, currently ranging from $72,005 to $76,005 depending on the size of the county.

Salaries for full-time court commissioners and referees are calculated at 25 percent below the salary of a judge in municipal courts and 15 percent below the salary of a judge in superior courts. Compensation figures for these quasi-judicial personnel are included in this category because these court officers are available to handle matters otherwise requiring an equivalent number of judges.

Health and retirement benefit rates are calculated to be 22.8 percent for superior court judges and 22.5 percent for municipal court judges.

Superior court judge benefits include approximately 3.1 percent of salary for health insurance and an employer retirement contribution rate of 8 percent plus a pro rata share of the annual state budget appropriation to the retirement fund equivalent to an additional 11.7 percent of salary.

Municipal court judge benefits include 3.4 percent of salary for health insurance and employer retirement contribution rates, a percentage identical to that for superior court judges, i.e., 8 percent plus 11.1 percent of the pro rata share of the annual budget appropriation to the retirement fund. Benefits for commissioners and referees are calculated on the same basis as for nonjudicial employees generally.

2. Nonjudicial Salaries and Benefits

Nonjudicial personnel includes all positions that provide support to the judicial function. For the superior court it includes court related positions in the county clerk's budget as well as those positions budgeted directly in the superior court. A partial list of support personnel includes court administrators, jury commissioners, secretaries, stenographers, courtroom clerks, calendar clerks, data processing and microfilming personnel, deputy clerks, clerk typists, accountants, cashiers and counter clerks.

The positions of court reporter and bailiff are costed separately to distinguish them from other nonjudicial position costs. Costs of these positions are discussed below.

Benefits for trial court nonjudicial personnel are estimated to be approximately 25 percent. This is in keeping with county employee benefit rates generally throughout the state.

3. Services and Supplies

The "services and supplies" category of trial court expenditures includes traditional operating expenses such as office supplies, printing, postage, telephone, and travel. Other costs unique to court operations include jury expenses, expert witness fees and professional services of court appointed counsel and doctors. Within "services and supplies" most counties include direct charges for some central service costs such as data processing, vehicle use, and sometimes building rent, including costs for

security and maintenance. Other countywide central service costs are considered indirect costs and are discussed as a separate cost component below.

Also included within the cost component of services and supplies are expenditures for office equipment and furnishings. These costs are categorized as "fixed assets" in most county budgets and are identified separately from services and supplies. However, because these amounts are a minor part of total annual expenditures and tend to fluctuate from year to year, we have elected to include these costs within the larger category of services and supplies. As noted previously, however, major capital outlay expenditures for such purposes as courthouse construction and site acquisition are not included in trial court costs.

4. Indirect Costs

This expenditure category allows for a share of centralized county services used by the courts to be included in the total operational costs of the courts. Although counties directly charge some countywide central service costs, as noted above, often these costs are incorporated into a countywide cost allocation plan and charged to the courts as indirect costs.

The countywide central service plans, as applied to the courts, may include such costs as purchasing, stores, personnel, auditing, disbursements, payroll, budget preparation and execution, messenger service, grant coordination, office machine maintenance, communications, parking lot maintenance, records retention, liability and bonding insurance, and rent, security and maintenance of court facilities.

It must be noted, however, that there are significant variations among counties as to which items are considered indirect costs and which items are considered direct charges and thus appear as budgeted expenditures.

An indirect cost rate is developed by obtaining the latest actual indirect annual costs charged to the courts, including the county clerk function and any other court related budget units, by the county auditor. The actual indirect cost amounts related to all municipal and superior courts are totaled and the percentage or rate of total court expenditures is determined.

Normally, this overhead rate is derived by using salaries and wages as the base. However, for ease of calculation, an equivalent rate based on total court expenditures has been developed. The rate, based on 1985–86 data from surveyed courts, is 9.8 percent for superior courts and for municipal courts 12.7 percent.

5. Court Reporters

The annual cost of a court reporter in the superior courts is based on the average salaries and benefits of full-time reporters in the superior courts surveyed. Costs are based on a ratio of one full-time court reporter for each judicial position in the superior court.

For municipal courts, an equivalent annual salary was computed. Past studies conducted by the Judicial Council have indicated that court reporters were involved in approximately 40% of the daily activities of municipal courts.

The benefit rate for court reporters was calculated the same as for other nonjudicial employees.

6. Bailiffs

Bailiffing costs are computed on a ratio of one bailiff for each judicial position for both municipal and superior courts. It is recognized that coverage for vacations, illnesses and other time off would require an increase in the ratio. However, some courts are operating without bailiffs in attendance at all sessions or utilize "court attendants" at a lesser salary. Consideration of these offsetting factors justifies maintaining the ratio of one bailiff per judge for cost purposes.

Average salaries and benefits for bailiffs were based on telephone inquiries to survey counties.

IV. STATE JUDICIAL BUDGET

Attachment A-5 is a summary of the various program categories that comprise the state judicial budget as included in the *Governor's Annual Budget.* Those categories are grouped into state operations and local assistance.

State judicial operations include the Supreme Court, Courts of Appeal, Judicial Council and Commission on Judicial Performance.

Local assistance comprises the state's contribution to trial court costs. This includes the major portion of superior court judges' salaries, annual block grants for superior court judgeships created after January 1, 1973, contributions to the Judges' Retirement Fund and funding for specific programs mandated to the trial courts by the state.

The local assistance amounts are included within the total estimated trial court costs for 1986–87 as presented on attachment A-1.

V. TRIAL COURT REVENUES

Attachment A-6 contains 1986–87 estimates of trial court revenues. The estimates are based on 1984–85 actual amounts. The 1984–85 "actuals" are from two sources. The revenue to counties and cities is from the State Controller's *Annual Report of Financial Transactions.* Revenues to the state are from the

Governor's Budget as reported in various penalty assessment funds and the Judges' Retirement Fund. A minor amount in fines is received by the state as miscellaneous revenue and an estimate is included for this item.

Court revenues to counties and cities are projected from 1984–85 to 1986–87 based on the average annual increase of actual trial court revenues to counties and cities for the ten preceding years, 1975–76 through 1984–85, as reported in the State Controller's *Annual Report of Financial Transactions*. However, the ten year average increase of court revenue to counties includes two years when the increase was about double the normal amount due largely to legislation authorizing increases in filing fees. To provide a more representative annual average, these two years (exceeding a 20 percent increase each year) were deleted when calculating the average annual increase in court revenue to the counties. The resultant average annual increase for counties is 10.41 percent. The average annual increase of court revenue to cities for the ten preceding years is 9.58 percent.

The revenue amounts distributed to the state for 1986–87 are from the *Governor's Budget* with the miscellaneous revenue from court fines estimated independently.

Court Financing Summary

The Court Financing Summary includes total California court costs including state judicial operations, state assistance to trial courts, and local trial court costs. Also presented are calculations of court costs as a percent of budget expenditures for various levels of government.

Other portions summarize trial court costs by level of court and the degree of state and local funding for each level of court; trial court costs apportioned to each judgeship in superior and municipal courts and the state and county shares for each additional position; and trial court revenues by type and amounts distributed to counties, cities and state.

ATTACHMENT A-1
1986–87
SUMMARY OF TOTAL ESTIMATED TRIAL COURT COSTS [a]

	Estimated Average Annual Cost Per Judicial Position	*Judicial Positions*	*Estimated Total Trial Court Costs*
Superior Courts			
Judicial Position ($81,505 + 22.8%)	$100,088		
Nonjudicial Personnel	167,885		
Services and Supplies	192,460		
Subtotal	$460,433		
Indirect Costs (9.8%)	45,122		
Total Costs Excluding Court Reporter and Bailiff	$505,555		
Total Costs Including Court Reporter and Bailiff	$590,758	825 jud. pos. (725 judges)	$487,375,000
Municipal Courts			
Judicial Position ($74,432 + 22.5%)	$ 91,179		
Nonjudicial Personnel	220,787		
Services and Supplies	160,471		
Subtotal	$472,437		
Indirect Costs (12.7%)	59,999		
Total Costs Excluding Court Reporter and Bailiff	$532,436		
Total Costs Including Court Reporter and Bailiff	$591,802	677 jud. pos. (564 judges)	$400,650,000
Justice Courts		82 pt jud. pos.	$ 28,770,000
Total All Trial Courts			$916,795,000 [b]

[a] 1986–87 total trial court costs are 12.04% above the revised 1985–86 total on Attachment A-2. County costs were adjusted 11.51% for 1986–87. State costs are based on the 1986–87 Governor's Budget. Judges' salaries are included at the July 1, 1986 level.

[b] Included in this amount is the state's contribution to the trial courts of $111.6 million. See Attachment A-5 of this appendix for detail of state's share of costs.

ATTACHMENT A-2

REVISED 1985–86

SUMMARY OF TOTAL ESTIMATED TRIAL COURT COSTS [a]

	Estimated Average Annual Cost Per Judicial Position	*Judicial Positions*	*Estimated Total Trial Court Costs*
Superior Courts			
Judicial Position ($77,624 + 25.8%)	$ 97,651		
Nonjudicial Personnel	153,408		
Services and Supplies	175,856		
Subtotal	$426,915		
Indirect Costs (11.8%)	41,838		
Total Costs Excluding Court Reporter and Bailiff	$468,753		
Total Costs Including Court Reporter and Bailiff	$553,956	781 jud. pos. (687 judges)	$432,640,000
Municipal Courts			
Judicial Position ($70,888 + 25.5%)	$ 88,964		
Nonjudicial Personnel	203,683		
Services and Supplies	148,520		
Subtotal	$441,167		
Indirect Costs (12.7%)	56,028		
Total Costs Excluding Court Reporter and Bailiff	$497,195		
Total Costs Including Court Reporter and Bailiff	$556,561	644 jud. pos. (542 judges)	$358,425,000
Justice Courts		82 pt jud. pos.	$ 27,140,000
Total All Trial Courts			$818,205,000 [b]

[a] Revised 1985–86 total trial court cost estimates were reduced 1.25% based on final 1985–86 county budgets and other updated supplemental state and county data. Superior courts were reduced 1.06% and municipal courts were reduced 1.75%.

[b] Included in this amount is the state's contribution to the trial courts.

ATTACHMENT A-3

1986–87

SUPERIOR COURTS TOTAL ESTIMATED COSTS PER JUDICIAL POSITION

Cost Category	*Estimated Average Annual Cost Per Judicial Position*	*Average Cost Per Case Related Minute* [a]	*Average Cost Per Case Related Hour* [a]	*Average Cost Per Case Related Day* [a]
Judicial Position (7-1-86 $81,505 + 22.8%)	$100,088	$1.3286	$ 79.72	$ 457
Nonjudicial Personnel	167,885	2.2284	133.71	767
Services and Supplies	192,460	2.5547	153.27	878
Subtotal	$460,433	$6.1117	$366.70	$2,102
Indirect Costs (9.8%)	45,122	0.5990	35.94	206
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff *excluded*)	$505,555	$6.7107	$402.64	$2,308
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff *included*)	$590,758	$7.8416	$470.50	$2,698

[a] An estimated 219 days per year or 75,336 minutes per year is available for case-related activity for each judicial position in the superior courts.

ATTACHMENT A-4

1986–87

MUNICIPAL COURTS TOTAL ESTIMATED COSTS PER JUDICIAL POSITION

Cost Category	*Estimated Average Annual Cost Per Judicial Position*	*Average Cost Per Case Related Minute* [a]	*Average Cost Per Case Related Hour* [a]	*Average Cost Per Case Related Day* [a]
Judicial Position (7-1-86 $74,432 + 22.5%)	$ 91,179	$1.2222	$ 73.33	$ 422
Nonjudicial Personnel	220,787	2.9596	177.58	1,022
Services and Supplies	160,471	2.1511	129.07	743
Subtotal	472,437	6.3329	379.98	2,187
Indirect Costs (12.7%)	59,999	0.8043	48.26	278
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff *excluded*)	$532,436	$7.1372	$428.24	$2,465
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff *included*)	$591,802	$7.9330	$475.98	$2,740

[a] An estimated 216 days per year or 74,600 minutes per year (78,000 Los Angeles) is available for case-related activity for each judicial position in the municipal courts.

ATTACHMENT A-5
1986–87
PROPOSED STATE JUDICIAL BUDGET
(Million $)

Supreme Court		$11.1	
Courts of Appeal		55.3	
Judicial Council		14.9	
Commission on Judicial Performance		0.6	
Judges' Retirement Fund (Appellate Courts)		1.7	
Total State Judicial Operations			$83.6
State Mandates—Local Assistance		$23.5	
Superior Court Judges' Salary		52.9	
Superior Court Block Grants		13.6	
Judges' Retirement Fund			
Superior Courts, estimated	$12.6		
Municipal Courts, estimated	9.0	21.6	
Total Local Assistance			111.6 [a]
Total 1986–87 State Judicial Budget			$195.2 million

[a] These items, totaling $111.6 million, are the state's contribution to the funding of the trial courts. This amount is included within the total estimated trial court costs for 1986–87 as displayed on Attachment A-1 of this appendix.

ATTACHMENT A-6
TRIAL COURT REVENUES
ACTUAL 1984–85
ESTIMATED 1986–87 *

	1984–85 Actual	*1986–87 Estimated*
TO COUNTIES [a]		
Fines, Forfeitures, Penalties		
Vehicle Code Fines	$121,365,657	$147,950,000 [c]
Other Court Fines	72,447,552	88,300,000
Forfeitures and Penalties	49,804,218	60,700,000
Charges for Current Services		
Civil Process Services	14,489,476	17,700,000
Court Fees and Costs	114,408,173	139,500,000
TOTAL	$372,515,076	$454,150,000
TO CITIES [a]		
Fines and Penalties		
Vehicle Code Fines	$129,727,575	$155,800,000 [d]
Other Fines, Forfeitures and Penalties	54,487,082	65,400,000
TOTAL	$184,214,657	$221,200,000
TO STATE OF CALIFORNIA [b]		
Assessments on Fines	$118,315,000	$134,947,000 [e]
Court Fees (Judges' Retirement Fund)	4,272,000	4,257,000
Court Fines (estimates of state share of specified violations of Bus. & Prof. Code and Health & Safety Code)	3,000,000	3,000,000
TOTAL	$125,587,000	$142,204,000
SUMMARY		
To Counties	$372,515,076	$454,150,000
To Cities	184,214,657	221,200,000
To State	125,587,000	142,204,000
TOTAL	$682,316,733	$817,554,000

* Revenue to *counties* has been adjusted 10.41% per year for 1985–86 and 1986–87. That is based on the average annual increase of trial court revenues to the counties for the ten preceding years excepting two years when increases exceeded 20% due largely to legislation authorizing filing fee adjustments. Revenue to *cities* has been adjusted 9.58% per year for 1985–86 and 1986–87 based on the average annual increase of trial court revenues to cities for the ten preceding years. Revenue to the *state* is from the 1986–87 *Governor's Budget*, except for court fines which have been estimated independently.

[a] Source: State Controller's Reports—Financial Transactions Concerning Counties and Cities. (Adjustment made to reflect San Francisco County under "Counties" instead of "Cities.")

[b] Governor's Budget and Judicial Council estimates.

[c] 50% Vehicle Code Fines restricted as to use per Vehicle Code § 42201.

[d] All Vehicle Code Fines restricted as to use per Vehicle Code § 42200.

[e] Fine assessments are designated by statute for specific purposes. The 1986–87 distribution and amounts are as follows:

Peace Officers Training Fund	$ 37,448,000
Driver Training Penalty Assessment Fund	40,119,000
Fish and Game Training Fund	513,000
Indemnity (Restitution) Fund	30,315,000
Corrections and Probation Training Fund	12,307,000
Local Public Prosecutors and Public Defender Training Fund	750,000
Victim Witness Assistance Fund	13,495,000
	$134,947,000

1986–87
COURT FINANCING SUMMARY

Total Court Costs by Funding Source (State and Local)		
State Judicial Operations [a]	$83.6mill.	8.4%
State Assistance to Trial Courts [b]	111.6	11.1
Total State Costs	$195.2mill.	19.5%
County Costs (Trial Courts)	805.2	80.5
Total Court Costs (est.)	$1,000.4mill.	100.0%
Total Court Costs as Percent of Total Budget Expenditures		
State's Share of Total Court Costs as Percent of Total State General Budget [c]		0.5%
Total Court Costs as Percent of Total State General Budget [d]		2.8%
Total Court Costs as Percent of Total Estimated State and Local Budget Expenditures [e]		1.7%
Trial Court Costs by Level of Court		
Superior Courts	$487.4mill.	53.2%
Municipal Courts	400.6	43.7
Justice Courts	28.8	3.1
Total Trial Court Costs (est.)	$916.8mill.	100.0%
Trial Court Costs by Funding Source (State and Local)		
Superior Courts		
County Costs	$385.0mill.	79.0%
State Assistance [f]	102.4	21.0
Total Superior Court Costs (est.)	$487.4mill.	100.0%
Municipal Courts		
County Costs	$391.4mill.	97.7%
State Assistance [g]	9.2	2.3
Total Municipal Court Costs (est.)	$400.6mill.	100.0%
Justice Courts		
County Costs	$28.8mill.	100.0%
State Assistance	–	–
Total Justice Court Costs (est.)	$28.8mill.	100.0%
Total All Trial Courts		
County Costs	$805.2mill.	87.8%
State Assistance	111.6	12.2
Total Trial Court Costs (est.)	$916.8mill.	100.0%
Costs Per Additional Superior Court Judgeship		
County Costs	$410,666	
State Assistance [h]	180,092	
Cost Per Judgeship (est.)	$590,758	
Costs Per Additional Municipal Court Judgeship		
County Costs	$575,518	
State Assistance [i]	16,284	
Cost Per Judgeship (est.)	$591,802	
Trial Court Revenue by Type		
Fines, Forfeitures and Penalties	$521.2mill.	
Assessments on Fines	134.9	
Civil Filing Fees and Costs	143.8	
Civil Process Services	17.7	
Total Revenue (est.)	$817.6mill.	

Distribution of Trial Court Revenue

To Counties	$454.2mill.
To Cities	221.2
To State	142.2
Total Revenue (est.)	$817.6mill.

[a] State judicial operations include the Supreme Court, Courts of Appeal, Judicial Council, and Commission on Judicial Performance.

[b] State assistance to the trial courts includes contributions to the Judges' Retirement Fund, a major portion of superior court judges' salaries, a $60,000 annual block grant towards the support cost for all but seven new superior court judgeships created since January 1973, and reimbursements for legislative mandates.

[c] State's share of total court costs is $195.2 million. State general budget is $36.2 billion. Thus, $195.2 million/$36.2 billion = 0.5%

[d] Total court expenditures are $1.0004 billion. State general budget is $36.2 billion. Thus, $1.0004 billion/$36.2 billion = 2.8%

[e] The Controller's Office reports the following local government expenditures:

1984–85 county expenditures exclusive of enterprise and bond funds	$12.020 billion
1984–85 city expenditures exclusive of enterprise and bond funds	9.336
1984–85 special district expenditures non-enterprise activities only	2.741
1984–85 school district expenditures	16.738
Total local expenditures	$40.835 billion
Application of 10.2% per year average increase for 85–86 and 86–87	$49.590 billion
Add state budget less local assistance	10.610
Total state and local expenditures	$60.200 billion
Thus, $1.0004 billion/$60.200 billion =	1.7%

[f] State assistance to superior courts includes:

(1) Contribution to judges' salary	$52.9 million
(2) Block grants ($60,000)	13.6
(3) Judges' Retirement Fund (8% of salary plus additional appropriation to meet liabilities)	12.6
(4) Legislative Mandates	23.5
	$102.4 million

[g] State assistance to municipal courts is largely limited to the Judges' Retirement Fund contribution of 8% of salary plus an additional appropriation to meet liabilities of the fund. Total contribution for this purpose is $9.0 million for 1986–87. An additional $0.2 million is provided to reimburse counties for municipal court judges' salaries while serving on assignment. Total assistance is $9.2 million.

[h] The calculation of state assistance for each *new* superior court *judgeship* is as follows:

(1) 8% of salary to Judges' Retirement Fund ($81,505 @ 8% = $6,520) plus a pro rata share of the budget act appropriation made each year to meet liabilities of the fund ($10,879) plus 3.11% of salary for health and welfare ($2,535) for a total of $19,934.

(2) State pays salary except for fixed county share of $9,500 for counties over 250,000 population, $7,500 for counties between 40,001–249,999 population, and $5,500 for counties 40,000 population or under. The calculation here is based on the larger sized county. Thus, the current annual salary of $81,505 less $9,500 = $72,005 as the state share.

(3) Annual block grant of $60,000 for support costs.

(4) Pro rata share of legislative mandates @ $28,153.

In summary, total assistance per *new* superior court *judgeship* as calculated here includes $19,934 retirement and health, plus $72,005 salary, plus $60,000 annual block grant, plus $28,153 legislative mandates for a total of $180,092 per judgeship.

[i] The calculation of state assistance for each *new* municipal court *judgeship* consists of contributions to the Judges' Retirement Fund of 8% of salary ($74,432 @ 8% = $5,955) plus a pro rata share of the budget act appropriation made each year to meet liabilities of the fund ($9,970) for a total of $15,925 per judgeship for retirement. An additional $359 per judicial position is provided to reimburse counties for municipal court judges' salaries while serving on assignment. Thus, the calculation for total state assistance per new judgeship is $16,284 ($15,925 + $359).

PART II

ADMINISTRATIVE OFFICE REPORT

ADMINISTRATIVE OFFICE STAFF

RALPH J. GAMPELL, *Director*

BURTON W. OLIVER, *Chief Deputy Director*

SAN FRANCISCO
State Building, Room 3154
350 McAllister Street, 94102

LEGAL

DONALD B. DAY, *Assistant Director, Legal*

Legal Research

MICHAEL A. FISCHER, *Attorney*
DAVID J. HALPERIN, *Attorney*
PERMELIA A. HULSE, *Attorney*
BEN MCCLINTON, *Attorney*
DIANE W. NUNN, *Attorney*
KATHLEEN A. SIKORA, *Attorney*
JOHN A. TOKER, *Attorney*
CARA L. VONK, *Attorney*
BOBBIE L. WELLING, *Attorney*

PERSONNEL

CINDY A. PARMA, *Personnel Officer*
WANDA CHINN, *Court Management Analyst*
GLORIA L. FRANKLIN, *Court Management Analyst*

Records Management

LOIS COUNT, *Court Management Analyst*

Clerical Support

CARI TEMPLETON, *Office Supervisor*

AOC Automation Group

THOMAS BREZNY, *Data Processing Supervisor*

COURT CONSULTATIVE SERVICES

JERRY L. SHORT, *Manager*
TAMMY P. GLATHE, *Assistant Manager*

JUDICIAL ASSIGNMENTS

BETH MULLEN, *Judicial Assignments Supervisor*
KIM MACALUSO, *Assignments Specialist*
JOAN PALMER, *Assignments Specialist*

PUBLIC INFORMATION

LYNN HOLTON, *Public Information Officer*

STATISTICS

JOE DOYLE, *Chief*
THOMAS H. SASAKI, *Senior Statistician*
HELEN M. CARRILLO, *Senior Statistician*
FRIEDERIKE E. DROEGEMUELLER, *Associate Statistician*

FISCAL AND BUSINESS SERVICES

Budget Office and Business Services

ARTHUR TROYER, *Budget Officer*
DIANA D. DORSEY, *Capital Outlay Coordinator*
DAVID GREEN, *Court Management Analyst*
DAVID N. SEWARD, *Court Management Analyst*
JAMES BETHEIL, *Business Services Officer*

Appellate Court Automation Group

VICTOR C. ROWLEY, *Senior Attorney*

Accounting Office

NEIL A. GAETZ, *Accounting Manager*
ANITA ANDAYA, *Accounting Supervisor*
TERRY GAVENDA, *Accounting Specialist*

DATA PROCESSING

DOUGLAS K. BAILEY, *Manager*

Support Services

EDWARD K. SATO, *Senior Data Processing Analyst*

Supreme Court Planning and Research Group

RONALD R. TITUS, *Data Processing Supervisor*

Data Processing Projects and Research

PEGGY A. CIFONELLI, *Coordinator*

LEGISLATION

100 Library and Courts Building, Sacramento 95814

JOHN W. DAVIES, *Assistant Director, Legislation*
STEPHEN C. BIRDLEBOUGH, *Attorney*
DANIEL I. CLARK, *Court Management Analyst*

CENTER FOR JUDICIAL EDUCATION AND RESEARCH

1947 Center Street, Berkeley 94704

PAUL M. LI, *Director*
WINSLOW O. SMALL, *Associate Director*
MARVIN B. HAIKEN, *Assistant Director*
MICHAEL W. RUNNER, *Assistant Director*
JAMES M. VESPER, *Assistant Director*
ELLEN MATTHEWS, *Attorney*
BONNIE J. POLLARD, *Attorney*
JEANNIE PETERSEN, *Program Coordinator*
NANCY N. YORK, *Program Coordinator*
CHRISTINE E. HOFFMAN, *Office Supervisor*

Chapter 1

DIRECTOR'S REPORT

A. Administrative Office of the Courts

The Administrative Office of the Courts (AOC) is the staff agency serving the Judicial Council, the chief administrative agency of the California court system (Cal. Const., art. 6, § 6). The office carries out the official actions and policies of the Judicial Council under the direction of the Administrative Director of the Courts, also provided for by the state Constitution.

The AOC was organized by a Judicial Council resolution delegating authority to the Administrative Director of the Courts. The resolution was adopted in 1962 in accordance with an amendment to the Constitution, and in 1970 became a part of the California Rules of Court (rules 990–992).

The AOC consists of several units, including a Legal Section, Legislative Office, Statistics Section, Court Consultative Services Unit, Judicial Assignments Section and Public Information Office. Three other units also provide services to the Supreme Court, the Courts of Appeal and the Commission on Judicial Performance, as well as to the AOC. These are the Personnel Office, the Data Processing Unit and the Business and Fiscal Services Office.

In addition, the Center for Judicial Education and Research, jointly sponsored by the Judicial Council and the California Judges Association, directs a comprehensive education program for state judges.

Following is a summary of the major functions and activities of the AOC.

LEGAL SECTION

The Legal Section prepares agenda materials for Judicial Council meetings, keeps records of all council action, and monitors necessary implementation activity after each meeting. It also performs staff counsel and legal research functions.

The AOC receives numerous inquiries and suggestions from judges, attorneys, administrators, court clerks, and others regarding court practice, procedure and administration. Most of the suggestions involve changes in court rules or forms; some involve proposed legislation. When a suggestion is received the legal staff prepares an "invitation to comment" which is circulated widely to interested persons and organizations. The staff receives the comments, researches any legal questions, and gathers data needed to present the proposal to a committee of the Judicial Council. This usually involves drafting the text of a proposed rule change, which the council may then approve "for publication."

Publication of the text of proposed rule changes in the *AOC Newsletter* and in major legal newspapers provides an opportunity for all attorneys, judges and other interested persons to submit detailed comments on the proposed wording before the amendment is formally adopted by the council.

New rules and forms are normally adopted effective January 1 and July 1 of each year. The text of each new rule, and camera-ready copies of each new form, are distributed to the courts and to legal publishers following each council meeting.

The Legal Section provides staff for a number of programs and advisory committees, including the council's legal forms program, coordination of civil actions having common issues (rules 1501–1550), sentencing practices (Pen. Code, § 1170.3), criminal changes of venue (rules 840–844) and special projects and studies.

Recent examples of special projects are the "pleading forms" and "form interrogatories" projects, the development of uniform law and motion rules, measures to improve the accessibility of local court rules, and an experiment in the use of court forms produced by word processors.

Recent studies include a report on the eight-member jury experiment in Los Angeles County, an analysis of a proposal to modify the procedure on appeal from juvenile court, a report to the Legislature on the experience under the simplified child support modification statute, and a survey concerning local court policies on smoking in jury areas. Most of these projects are described in greater detail in this and earlier annual reports.

The Legal Section has provided staff to assist the appellate courts in establishing various programs and procedures to improve the quality of representation of indigents in criminal appeals. For example, contracts have been negotiated through local bar associations and others to provide efficient administrative procedures for selecting private counsel to handle criminal appeals for indigent defendants.

In coordination with the Legislative Office of the AOC, the Legal Section monitors and analyzes all legislative bills that may affect court practice, procedure, or administration and all bills affecting felony sentencing.

LEGISLATIVE OFFICE

The Legislative Office in Sacramento serves two primary functions. The first is to present the legislative recommendations of the Judicial Council on the administration of justice; the second is to function as an administrative arm of the Supreme Court Clerk's Office.

The Legislative Office represents the Judicial Council before Senate and Assembly committees. It monitors legislative proceedings and reports on the progress of bills affecting the court system. The office also tracks bills of interest for the Administrative Office of the Courts and prepares a legislative summary for the *AOC Newsletter,* distributed to judges and others interested in new laws.

The office coordinates legislative matters with executive branch agencies, and provides information to the Legislative Analyst, Department of Finance, and individual legislators and committee staff.

The office assists legislators by providing specific information on proposed or pending legislation, reviewing individual legislator's bills, and responding to constituent inquiries on the judicial system, its structure, and relationship with other government agencies.

The office's legislative function includes distribution of judgeship needs reports and felony sentencing analyses prepared in the San Francisco office, and financial reports prepared in cooperation with the San Francisco staff on the fiscal impact of certain legislative proposals.

The Sacramento office prepares analyses of some bills, and identifies and distributes to the San Francisco office other bills for information and analysis. In the process, the Sacramento office reviews every bill introduced in the Legislature, and each of its amended forms. The office reviewed approximately 3,300 bills and measures last year.

In 1986 the office prepared its fifth annual court cost and revenue estimates for California trial courts for use in estimating the fiscal impact of court-related legislation, including additional trial court judgeships. The 1986–87 study showed that the estimated average annual cost per superior court judicial position was $590,758; the comparable municipal court figure was $591,802.

In addition, judgeship needs studies were forwarded to legislative authors and to appropriate committees upon introduction of a bill or amendment adding judicial positions.

The Sacramento staff also monitors the budget process, including conference committee action, and provides staff services to other court-related officers when working in Sacramento.

As an arm of the Supreme Court Clerk's Office, the Sacramento office receives official court documents. In 1986, approximately 1,700 transactions were filed or lodged. These filings were forwarded to the Supreme Court Clerk's Office in San Francisco on a daily basis.

STATISTICS SECTION

The Statistics Section operates reporting systems that collect information from all courts and assists the Judicial Council in discharging its constitutional duty to survey judicial business. The information is used to compile 130 statistical tables and graphs for the *Judicial Council Annual Report* and to prepare judgeship needs studies for superior and municipal courts seeking additional judges.

The section also operates a sentencing practices reporting system. The section maintains records of court organization changes and provides statistical support to other units of the Administrative Office of the Courts and to Judicial Council committees.

Operation of Reporting Systems

Almost a third of the Statistics Section's time is spent operating reporting systems. The staff logs in reports and contacts courts about delinquent reports, answers reporting questions and conducts statistical reporting workshops for court personnel.

About 6 percent of the section's time is spent monitoring the accuracy of reported data. A six-month computer summary of reports on filings and dispositions is sent to each superior and municipal court to be reviewed for accuracy. If an error is detected, the staff works with court personnel to correct it.

Computer-drawn graphs of filings and dispositions are also sent to superior and municipal courts to help identify abnormal shifts in reporting over time that could be due to a reporting error.

Annual Report

The single largest project of the Statistics Section is work on the *Judicial Council Annual Report.* There are 50 appendix tables that display data by court and type of proceeding for the two most recent fiscal years. The section also prepares about 80 tables and graphs for the "Judicial Statistics" chapter, in addition to narrative material that discusses trends and the impact of legislation on superior and lower courts. Material is also presented on

assistance provided to courts by the assignment of judges by the Chief Justice and assistance given to the courts by referees, commissioners and attorneys acting as temporary judges.

Judgeship Needs Studies

Upon the request of a presiding judge or the introduction of a judgeship bill, the Statistics Section prepares reports on the judgeship needs of superior or municipal courts. These studies use a weighted caseload system to estimate the judicial positions needed. The "weights" in the system are statewide average times used to dispose of different types of cases and are determined from surveys of the courts. Other information shown in the studies is a history of judicial staffing and manpower at work in the courts, cases pending, and weighted filings and dispositions of other courts of a similar size.

A presiding judge may comment on the study, augment it, or perform an independent analysis of judgeship needs. This becomes a part of the study and if a bill is subsequently introduced to increase the number of judges in the court, a copy of the complete study is sent to the appropriate legislative committees. A total of 38 judgeship needs reports were prepared in 1986; 18 for superior courts and 20 for municipal courts.

Sentencing Practices Report

In 1983, the Statistics Section was given responsibility for operating a sentencing practices reporting system. Individual case reports for each convicted defendant charged with a felony form the basis of this system. Sentences of the 80,000 convicted defendants a year are analyzed by type of offense.

Publication of the *Sentencing Practices Quarterly* was resumed in 1985 after a suspension of several years.

Other Activities

The section also maintains records of court organization changes and prepares and updates this information for internal use.

The Statistics Section produces and distributes a Five-Year Trend Report annually to each superior or municipal court. The report is on a calendar-year basis and is used by judges and court administrators in budget preparation and justification and in setting and reviewing management goals and objectives.

Justice court judges' salaries are compiled into a report each year following a survey of county auditors. The report is sent to justice court judges who use it in their salary negotiations.

The section also responds to numerous inquiries from the courts and other government agencies and provides statistical assistance to other AOC units and committees of the Judicial Council.

COURT CONSULTATIVE SERVICES

The Court Consultative Services unit provides technical assistance to California's courts, upon request. The unit provides service in three primary areas: court consulting, research and development, and special projects. There is no charge to the courts for the unit's services.

The unit is staffed by analysts with varied backgrounds, such as state and federal court administration, systems analysis, court management and consulting, personnel administration, legal research, budget and fiscal management, county administration, and family counseling and research. Since 1973, the unit has conducted studies in 54 of the 58 counties in California, working in over 150 different courts.

Court Consulting

The unit provides three specific types of consulting assistance to trial courts upon their request: management training, consultation, and court studies. Services may be obtained through a written request to the unit.

The goal of the management training service is to increase managers' and supervisors' awareness of problems and to sharpen their analytical skills, allowing them to conduct their own management studies.

When management training is requested, unit analysts conduct a training session at the court using sample forms, sample problems and solutions, and guidelines for analyzing court operations. Management training is limited to the areas of facilities management, fiscal management, records management, exhibits management, personnel management, nonjudicial staffing, and workflow analysis.

The court consulting service is purely informational. The unit visits approximately 25 to 30 courts each year, and maintains information on new systems in use. When a court requests information regarding systems and procedures used by other state courts, the unit will visit the court to discuss various alternatives without recommending a particular system. Examples of this assistance include discussions of available automated systems, types of facilities and facilities usage plans, types of calendaring systems, and workflow organizations.

Court studies are initiated by a written request from a court for assistance with a particular management problem. Analysts are then sent to the court to document and analyze operations. Following completion of the study, a written report is sent to the court for whatever action the presiding judge, county clerk, or court administrator deems appropriate.

The unit is also available to assist in implementing its recommendations. Study areas include calendar

management, workflow and document processing, exhibits management, records management, jury management, fiscal management, personnel management, facilities management, equipment needs assessment, and court organizational structure.

During 1986, the court study area was expanded to include requests for management studies from family court service directors.

Research and Development

Research and development projects may cover any aspect of court operations and generally involve designing model systems or testing new technologies. The goal of these projects is to improve court operations statewide. During 1986, staff spent substantial time developing a new automated system for statewide data collection, STATSCAN. This project is discussed in Chapter 2.

Special Projects

This service area is made up of three components. These include gathering and disseminating information on a statewide level, providing technical expertise in areas of statewide concern, and developing training programs for trial courts. Many of these projects are long-term and involve court personnel and other AOC units.

Among the training components is an annual conference focusing on court management issues, including court management and supervision, the roles and relationships of presiding judges and court administrators, court operations, and new legislation. During 1986, the unit sponsored the first Justice Court Conference for judges and clerks. The conference focused on management concerns of these groups and featured new developments in automated systems applicable to justice courts.

The unit also began revising the Basic In-Service Training manuals (BIST) for trial court personnel during 1986. The manuals contain valuable information for both new and experienced clerks. Once revisions are complete, the new manuals will be distributed to the trial courts.

During 1986, the unit implemented the Family Court Services Project, in accordance with Civil Code sections 5180 and 5183. The project encompasses a variety of areas and is designed to assist counties with providing improved mediation services. This project is discussed in Chapter 1.

PERSONNEL OFFICE

The Personnel Office provides a full range of personnel services to judicial branch agencies. Although the Administrative Office of the Courts traditionally performed personnel transactions and services, it was not until 1980 that a personnel unit was officially established. This unit provides management and technical staff assistance to the judicial branch in the following areas.

Recruiting

Recruiting assistance is provided to the Administrative Office of the Courts and, upon request, to the Supreme Court, Courts of Appeal and Commission on Judicial Performance.

Position Classification and Salary Administration

The Personnel Office completes salary and classification projects throughout the judicial branch to determine whether positions are established at the appropriate levels. All proposed personnel actions in the Administrative Office of the Courts are developed by the Personnel Office, and personnel actions requested by the Courts of Appeal are reviewed and appropriate action recommended.

A comprehensive review of all positions in the Courts of Appeal was previously completed. Position descriptions for all classifications in the Courts of Appeal were developed and finalized. The class specifications include the overall definition of the position, description of duties and responsibilities, and specific minimum qualifications. The position descriptions are used throughout the judicial branch in recruitment, classification and employee promotion matters.

In 1985 a similar classification project was undertaken with regard to all positions which exist in the Administrative Office of the Courts. That project has been completed.

Policies and Procedures

The Personnel Office develops, recommends and implements personnel policies and procedures used throughout the judicial branch.

Personnel policy and procedure manuals have been developed. The manuals will be used in the administrative structure and will be distributed to other judicial branch agencies. The manuals will serve as organizational guides and will form the basis for sound personnel decisions. The personnel policies and procedures manual also will inform employees of the processes which affect their employment status.

A Personnel Office operating manual has also been developed. The document contains detailed procedures of the internal operations of the Personnel Office and is intended for the use of Personnel Office staff members.

Personnel Transactions

The Personnel Office functions as liaison between the judicial branch and the State Controller's Office for all personnel transactions. The AOC Personnel Office prepares all personnel-related paperwork

required by the State Controller for the Supreme Court, Courts of Appeal, Commission on Judicial Performance, and the administrative structure.

Position status reports for the Courts of Appeal are distributed to the courts on a monthly basis. The documents outline the reporting and organizational structure of the courts and are a valuable resource in the position control function.

The payroll transaction section has been automated. The Personnel Office now has data processing access to the payroll system in Sacramento, and by use of satellite computer terminals, Personnel Office employees are able to make payroll-related changes much more quickly than was possible with the previous manual system.

Training

A training needs assessment was recently completed for employees of the Administrative Office of the Courts. Information from the training needs assessment will assist in the development of training programs to meet the needs of the staff. A training request form was also developed and implemented, which will enable the Personnel Office to gather more information on training activities.

An employee performance system is in the process of being developed. The appraisal system will be helpful to supervisors in the employee assessment and training process. The program will also provide direction and guidance to employees in job performance and career development.

An employee handbook was developed for branchwide use and is updated periodically. The document contains an overall description of the judicial branch, its agencies and their respective functions; general personnel policy statements; and an outline of judicial branch benefits.

Personnel Office Automation Project

In the coming year, the AOC personnel function will become fully automated. Efforts are underway to computerize many of the tasks which are now manually performed.

The automated personnel program will store employee personnel files, salary and promotion data, education and skill levels, affirmative action and work force analyses, applicant statistics and analyses, salary savings, sick leave and vacation accruals, position control data, and turnover statistics.

DATA PROCESSING UNIT

The Data Processing Unit was organized in 1982 to develop and maintain automated systems for the Courts of Appeal and Administrative Office of the Courts. The three groups within the unit are the Appellate Support Systems Group (PROMIS), the Appellate Automation Project Group, and the AOC Automation Group.

Appellate Support Systems Group

This group is responsible for the development and installation of automated systems used by the clerks' offices in the Supreme Court and the Courts of Appeal. The principal system being installed is PROMIS, for appellate case management.

The PROMIS projects for the Supreme Court and Courts of Appeal were combined under this group in 1986. The group provides support services to the eight Court of Appeal sites already using PROMIS, as well as continuing development for implementing PROMIS in the Supreme Court and remaining appellate site without an automated case management system. Following completion of this development work, both the Supreme Court and the last appellate site began use of PROMIS in February of 1987. Installation of PROMIS in these sites brings automated case management systems to all state appellate courts.

The group has begun to develop systems requirements for the next generation of automated appellate case management systems. Once the analysis and formal requirements document are complete, an analysis of development options will begin.

Finally, a contract was signed in 1986 with the Bancroft-Whitney Company for publication of the *Official Reports of California.* For the first time, the contract included language describing the means by which appellate opinions will be transmitted from the courts directly to the publisher. Also included was language which requires a reduction in *Official Reports* subscribers' costs when the transmission of opinions over a telecommunications network has been successfully implemented. Initial testing of this system began in a pilot site early in 1987.

Appellate Automation Project Group

This group is responsible for the development and installation of automated systems used directly by appellate justices and their staff. The project began in 1984 with the formation of a steering committee made up of representatives from each appellate division. Full implementation of the project began in 1986.

The system was successfully installed in the Supreme Court and the initial appellate court site in 1986. Installation included development and installation of custom local area networks to connect work stations and printers to minicomputers centrally located in each court. The systems will initially be used for word processing, but additional functions, such as access to case management data in the clerk's office, access to legal research systems through minicomputers, and access to an issue-tracking system, will be added as development work is completed.

Work is also continuing on implementation of a statewide telecommunications network for the appellate courts. The network will link the separate geographic sites of the appellate courts, using the clerks' office systems as primary nodes in the network. This will initially be a point-to-point dial-up network used for transmission of opinions to the publisher of the *Official Reports*, inter-district electronic mail, and support services from data processing staff. (Data processing services include remote diagnostics, programming support functions, and software distribution services.) As the network is deployed, traffic will be analyzed to determine the economic feasibility of network alternatives, such as leased lines for value-added networks.

AOC Automation Group

This group is responsible for development and installation of automated systems used by the Administrative Office of the Courts. The major accomplishments of 1986 were integration and enhancement of existing systems, as well as deployment of several minor support systems.

The first major system developed by the group was the Accounting System. This was written entirely in-house and brought on-line in only two years. It has continued to function well and flexibly, and enhancements added over the past two years have served to improve its functioning, ease of use, and internal efficiency. It now provides detailed, timely budget information to the courts and agency management, much of which was previously unavailable.

Begun in 1982, the Judicial Information System was designed to centralize the separate manual systems used in the AOC to collect and disseminate information about state judges and judicial officers. After four years of systems development, the group is nearing its goal of entering all court-related information into a single system only one time and subsequently making it available to agency personnel.

For example, early in 1986, an earlier version of the Judicial Information System (essentially a collection of biographical information about judges) was combined with a mailing list system to produce one system for entering and maintaining this information. This eliminated inconsistencies that often arose between the two earlier systems. Most of the work on the Judicial Information System in 1986 was related to developing system outputs, including the automation of notice of change reports, Judicial Directory and Judicial Roster reports.

Several other AOC systems were also developed in 1986. Most of these were inventory systems of various types. Principal among them as an equipment and supplies inventory system, developed as an adjunct to the Accounting System for the Fiscal and Business Services Office. Also developed was an inventory system which collects, maintains, and relates information from the AOC Library, Central Files, and the Records Management programs. In addition, a tracking system was implemented for the Clerical Services Unit, to assist in monitoring work in progress and to provide management statistics on workload.

Finally, a system for collecting and reporting information on court-appointed appellate counsel fees was implemented in 1986. This system provides not only fiscal monitoring, but also a variety of management reports.

Future Projects

The focus of the Data Processing Unit in 1987 will be:

- To install a statewide telecommunications network for the appellate courts, including pilot testing of direct transmission of appellate opinions to publishers;
- To install the Appellate Automation System in all remaining appellate sites;
- To complete specifications for the next generation of appellate case management software;
- To begin using a fourth-generation systems development tool for agency data processing projects.

FISCAL AND BUSINESS SERVICES OFFICE

The Fiscal and Business Services Office provides administrative services in accounting, budget and business affairs, and performs related management studies as needed for the Supreme Court, the Courts of Appeal, the Administrative Office of the Courts and the Commission on Judicial Performance.

Accounting Office

The Accounting Office maintains the financial records for state appellate courts and judicial agencies, including payment of authorized expenditures, accounting for those expenditures in conformance with the State Accounting System, production of management and accounting reports, and reconciliation of accounts with state fiscal control agencies.

The unit's automated accounting system, which became fully operational in December 1985, was refined during 1986. Currently in progress is the development of an automated audit system for the court-appointed counsel program, and an expanded special projects reporting function.

Plans for 1987 include further enhancements to the system, including computation and payment of assigned judges' compensation, computation and printing of travel expense claims, and automation of additional financial reports and reconciliations.

Budget Office

The Budget Office prepares the annual operating and capital outlay budgets for state appellate courts and judicial agencies, and administers appropriations once the budget is enacted. Other responsibilities include fiscal planning and expenditure analysis, operational studies, and basic management support to judicial branch operations.

During 1986, the office created special planning and expenditure tracking budgets for a number of projects, including the Appellate Automation Project, STATSCAN, family law-related activities and assorted legislation. The office also completed an operational analysis for the Commission on Judicial Performance, which will be used to request additional staff for that agency for the 1987–88 fiscal year.

Business Services Unit

The Business Services Unit is responsible for procurement, contracting, and facilities planning for state appellate courts and judicial agencies. The unit also inventories assets and prepares annual replacement schedules for equipment.

During 1986, the unit continued active involvement in site preparation, procurement, and inventory activities for the Appellate Automation Project. The unit also continued extensive involvement in several major capital outlay projects, including planned work in the San Francisco State Building, the planned construction of a new Los Angeles State Building and the completion of work in the Fresno State Building.

PUBLIC INFORMATION OFFICE

The Public Information Office serves as a press office for the California Supreme Court, the Judicial Council, and the Commission on Judicial Appointments. The office also produces various publications for the state judicial branch. These include the *Judicial Council Annual Report* and the *AOC Newsletter*, and special publications such as the Supreme Court's practices and procedures booklet and a pamphlet entitled "The California Judicial System."

News Media and Public Inquiries

The Public Information Office handles numerous telephone inquiries from the public and press on a wide range of topics concerning the state courts.

Press calls on the state Supreme Court are the most numerous. Others involve actions taken by the Judicial Council, caseload statistics published in the annual report, assignment of judges, and AOC programs, such as coordination of cases and change of venue. Calls are also received on the council's weighted caseload and judgeship needs studies, and the council's annual report on trial court costs and revenue estimates.

Supreme Court News Media Program

The Public Information Office has served as a press office for the California Supreme Court for almost two decades. Legal affairs reporters regularly call the office to determine if the court will issue filings on either Monday or Thursday, the court's two regular filing days.

An opinion issued at any other time constitutes a "special filing" and reporters who cover the court on a daily basis are automatically notified by the Public Information Office.

The office also notifies the press of major actions taken by the Supreme Court, at the request of the media.

The office distributes various materials to the news media, including a weekly summary of Supreme Court cases accepted for review, a monthly calendar with case summaries, and the court's official photograph. The office arranges press seating, as necessary, during sessions of the Supreme Court and meetings of the Commission on Judicial Appointments.

News Releases

News releases are issued regularly to more than 250 recipients, including major metropolitan newspapers, the legal press, court personnel and law schools. Subjects covered include actions taken by the council and announcements by the California Supreme Court and the Commission on Judicial Appointments. About 70 news releases are issued per year. A weekly summary of cases accepted for review by the Supreme Court is issued to a smaller, separate list, also composed of the press, court personnel and others.

AOC Newsletter

A bimonthly *AOC Newsletter* is mailed to almost 3,000 judges, court officials, legislators, and others interested in court administration. Each issue reports on actions taken by the council, current AOC projects, recent judicial appointments, and new court officials. Once a year, a special supplement is devoted to new legislation affecting the courts.

The newsletter's format has been modernized in recent years with the addition of a new nameplate, a more readable three-column format, and larger headlines. The content has expanded and distribution widened to include all chief justices and state court administrators throughout the United States.

Annual Report

The most comprehensive publication issued by the agency is the *Judicial Council Annual Report.* Distributed to the same national mailing list as the newsletter, the annual report is submitted to the Governor and Legislature as required by article VI, section 6 of the state Constitution.

Part I of the report contains major recommendations on court administration approved by the council. Part II summarizes the work of the AOC and includes a detailed statistical overview of the workload of state courts. Almost 90 pages of statistical tables appear at the end of the publication and serve as a valuable data resource throughout the year.

Format changes were made in 1983 to improve design and readability. The content was also expanded to include more comprehensive summaries of legislation and AOC projects, and a summary of the administrative office in the "AOC Director's Report."

Other Publication Services

The Public Information Office prepares a summary of the courts entitled "The California Judicial System" that is distributed to the news media, private citizens and visitors to the United States seeking general information on state courts.

The office assists the state appellate courts with producing publications, at their request. Assistance is also given to publishers in updating national and state directories on the California court system.

JUDICIAL ASSIGNMENTS UNIT

Under the direction of the Chief Justice, the Judicial Assignments Unit is responsible for providing both trial and appellate courts with judicial assistance on a daily basis. Each year, over 5,000 requests for assistance are received from presiding judges and justices for a variety of reasons, including vacancies, illnesses, disqualifications, and calendar congestion. Assignments also may be issued to provide assistance while a new judge attends orientation classes or to permit a judge who has been elevated to complete matters he or she began in another court.

To meet the staffing needs of the courts, both active and retired judges are called on to provide assistance for periods ranging from one day to two months or longer. Many active judges volunteer to assist other courts in their own or neighboring counties when their calendars permit. Retired judges who retain their eligibility for assignment are a valuable source of judicial assistance, as are the many justice court judges who provide help throughout the state.

In addition to its daily operations and functions, the Judicial Assignments Unit is responsible for several annual projects. These include the preparation of blanket and reciprocal assignments and superior court appellate department designations.

Blanket and reciprocal assignments provide the courts with more flexibility at the local level. Under a blanket assignment, the Chief Justice delegates authority to the presiding judges of two or more courts within the same county to assist each other's courts as the need arises. When the courts involved are located in different counties, these delegations of authority are referred to as reciprocal assignments. Approximately 200 blanket assignments and 60 reciprocal assignments are issued on an annual basis and updated as needed during the year to reflect changes in the membership of the bench.

Pursuant to provisions of the Code of Civil Procedure, the Chief Justice is responsible for designating the members of the appellate department in each superior court throughout the state. Each appellate department is composed of at least three judges—a presiding judge and two other members. The Chief Justice may, when necessary, designate a fourth judge to serve as a member. At the direction of the Chief Justice, the Judicial Assignments Unit assists in this important function by assuring that telephone contacts are made and designations are prepared, distributed and updated.

The Judicial Assignments Unit is comprised of four staff members: a judicial assignments supervisor, two judicial assignments specialists, and one judicial secretary.

CENTER FOR JUDICIAL EDUCATION AND RESEARCH

The Center for Judicial Education and Research (CJER) provides a comprehensive educational system for California judges. Formed in 1973 as a joint enterprise of the Judicial Council and the California Judges Association, CJER conducts continuing education programs for the judiciary and orientation programs for new judges. It also prepares judges' benchbooks and other educational materials.

As of July 1986, CJER has conducted 178 educational programs for 11,508 participants, including: 14 annual two-week Judicial Colleges (1,755 participants), 68 three-day continuing education institutes (8,085 participants), 95 monthly one-week orientation programs for new judges (1,145 participants), and 10 semi-annual week-long Continuing Judicial Studies Programs for experienced judges (915 participants).

Annual attendance has risen from 435 judges and commissioners in the first year to some 1,175 in fiscal year 1985–86. California now has more than 1,350 judges and 200 commissioners and referees.

Orientation Programs for New Judges

CJER's education system for new trial judges is composed of five programs totaling five to six weeks of orientation and training during the new judge's first year of judicial service.

The Advisor Judge (Mentor) Orientation Program arranges for an experienced judge to assist each new trial judge in making the transition from law practice to the bench. A *Guide for Advisor Judges* outlines the steps the advisor judge should follow to orient the new judge to his or her judicial duties. Since 1974, 793 new judges, or over one-half of the California judiciary, have participated in this program.

The Judicial Clinic Court Program is a one-week in-residence educational program designed especially for new judges who have had limited courtroom experience. It provides them with actual "hands-on" training in handling their first court proceedings. This program began in late 1982 and is conducted whenever a new judge requests the training.

The New Trial Judges Orientation Program is a one-week, in-residence program that provides new trial judges and commissioners with basic training in judicial roles, tasks, and skills, at the time of or shortly after taking the bench. The program consists of 10 courses (35 hours) that deal with judicial techniques and procedures for handling common court proceedings. This program is conducted six times a year for new superior court judges and commissioners. It also is conducted, with different course content and instructors, six times a year for new municipal and justice court judges and commissioners. One hundred eleven new judges and commissioners took part in the fiscal 1985–86 series of programs. A total of 1,145 have taken part since the program began in 1977.

In addition, 26 municipal and superior court judges attended a Phase II orientation session in April 1986. CJER held its first New Appellate Judges Orientation Program in March 1983. Program topics included: California rules on appeal; civil issues and criminal issues frequently raised on appeal, and their disposition; extraordinary writs; impact of Proposition 8; the decisional process; clarity of writing; precedent; office management; and jurisprudence and legal philosophy. Thirty-eight new Court of Appeal judges participated in this program.

The second orientation program for new appellate judges was held in June 1986 and attended by 18 new judges. The California Judicial College is an annual two-week in-residence program that provides comprehensive education for all new trial judges and commissioners appointed during the year. Established in 1967, this nationally recognized program provides judges and commissioners with some 65 hours of problem-solving classes and 20 hours of small group seminars. One hundred twenty-five new judges and commissioners attended the 1985 college, and a total of 1,755 have attended since 1967.

The Judicial Visitation Program will begin in 1987 and will provide judges with tours of state correctional institutions. The tours are designed to acquaint judges with the various institutions to which they may commit criminal defendants and juveniles, and to assist them in making appropriate sentencing choices.

Continuing Education Programs for all Judges

CJER's continuing education programs consist of seven annual institutes and three one-week California Continuing Judicial Studies Programs.

To assist the California judiciary in keeping up to date with recent developments in the law and in solving current court problems, the center conducts seven continuing education institutes each year. The programs are designed, respectively, for appellate court judges, civil trial judges, criminal court judges, family court judges, juvenile court judges, municipal and justice court judges, and rural "cow county" superior court judges. A total of 758 judges and commissioners attended seven 1985–86 institutes, and 8,085 judges and commissioners have attended since 1973.

The Continuing Judicial Studies Program is a one-week, in-residence program designed to meet the educational needs of experienced judges, particularly those who are changing their court assignments.

General programs for all judges are held semi-annually and a special program for incoming presiding judges of metropolitan superior and municipal courts was initiated in November 1986.

The curriculum of the semi-annual general programs consists of numerous courses that range from one to five and one-half days in length, each of which covers a particular type of trial court duty. The courses are divided into: (1) three week-long specialized schools for superior court judges, covering civil, criminal, and family proceedings; (2) two week-long courses for municipal and justice court judges, on civil and criminal proceedings; (3) one week-long program on judicial fact-finding and decision-making for all trial court judges; and (4) two schools on jurisprudence and the humanities for both trial and appellate court judges. Additional general courses deal with courtroom fairness, communication skills, and judicial stress.

The continuing Judicial Studies Program is the first "graduate level" program of its kind in the United States and features modern adult educational techniques and learning aids. A total of 287 judges and commissioners attended the two 1985–86 programs, and 915 have attended since this program began in 1981.

The new one-week, special court management program for presiding judges will be held each year

in November to assist new presiding judges before they assume office. The curriculum focuses on criminal and civil caseflow management, internal management problems, successful settlement techniques, and development of effective working relationships with court executives.

Judicial Publications

CJER has prepared numerous benchbooks and other educational materials for California judges. It also publishes the quarterly *CJER Journal*, that serves as a forum for the exchange of information, ideas, and successful working techniques among the California judiciary. A complete description of CJER's judicial publications is found in 7 CJER Journal 1 (Cal. CJER Winter Issue 1986). CJER also publishes a *California Judges Directory to Unpublished Judicial Materials*, that gives judges information about virtually everything authored by judges for court or educational use.

Audiotape and Videotape Programs

CJER publishes a series of audiocassette tape and videotape programs that cover selected areas of judicial practice and procedure and are designed for both new and experienced trial judges. A complete list of some 100 taped programs is contained in 7 CJER Journal 1 (Cal. CJER Winter Issue 1986).

B. Summary of 1986 Legislation

The Legislature enacted a number of trial court efficiency-related proposals during the second year of the 1985–86 Regular Legislative Session. Eight of the enactments were first proposed by former Chief Justice Bird.

These program enactments included a 1986–87 Budget Act appropriation of $1.2 million for installation of a pilot project to speed data collection and improve court management information using bar-coded labels and optical scanners in conjunction with personal computers (STATSCAN); statutory authorization that the Judicial Council may specify use of electronic data collection methods in carrying out its constitutional mandate to survey court business (AB 2661 (Harris), Ch. 387, Stats. of 1986); and a statewide compilation of civil case characteristics to facilitate assessment of the most effective settlement procedures (SB 2341 (Lockyer), Ch. 1207, Stats. of 1986; also see AB 3357 (Papan), Ch. 1326, Stats. of 1986).

Also enacted was a program promoting voluntary dispute resolution for non-courtroom disposition of cases (SB 2064 (Garamendi), Ch. 1313, Stats. of 1986); mandatory use of computer-aided transcription in capital cases to speed trial court record preparation (AB 2661 (Harris), Ch. 387, Stats. of 1986); a pilot project in selected superior court departments to use magnetic audio and video tape recordings in lieu of stenographic reporting for preparation of the verbatim transcript of court proceedings; and the establishment of a state policy of providing courthouse waiting room facilities for victim-witnesses and child witnesses (AB 3941 (Condit), Ch. 976, Stats. of 1986).

New court procedures include eliminating the filing fees for restraining orders against domestic violence when there is no pending proceeding (AB 2661 (Harris), Ch. 387, Stats. of 1986); waiver of fees related to certain juvenile case appeals (AB 3483 (Harris), Ch. 823, Stats. of 1986); and a requirement for attorneys in criminal matters to give the court calendar clerk notice of which hearing was set first when conflicting court appearances are scheduled (SB 1923 (McCorquodale), Ch. 1172, Stats. of 1986).

Also, SB 1561 (Beverly), Ch. 1561, Stats. of 1986, reinstates an eight-person civil jury study in Los Angeles municipal courts to assess community representation, verdicts, consistency, and costs in comparison to 12-person juries.

The Judicial Council opposed legislation enacted to provide a jury with written instructions upon request, and to advise the jury of its right to request written instructions (AB 2748 (Stirling), Ch. 1045, Stats. of 1986).

Another major proposal was AB 3300 (W. Brown) Ch. 1335, Stats. of 1986, sponsored by Attorney General John K. Van de Kamp, which enacted the Trial Court Delay Reduction Act. The principles of the bill were supported by the council.

The bill in part requires the council to adopt standards for the timely trial court disposition of cases. New statistics are to be collected and published relating to the time from filing to disposition in civil cases and from arrest and first superior court appearance to disposition in superior court.

Nine superior courts will participate in the three-year project to expedite case processing. They are statutorily identified based on a per judge ratio of civil cases awaiting trial for over one year from the date of at-issue memorandum.

Other measures sponsored by the council and enacted in 1986 include AB 3484 (Harris), Ch. 1398, Stats. of 1986, further clarifying the status of certain holidays to further the purposes of 1985 council-sponsored legislation establishing a uniform holiday schedule for all courts in the state, and SB 2345 (Lockyer), Ch. 246, Stats. of 1986, requiring opposition papers to a motion to be filed and served on each party at least five court days before the hearing date.

MEASURES ENACTED

Mediation, Conciliation

Senate Bill 2064, introduced by Senator John Garamendi, establishes a Dispute Resolution Advisory Council to set guidelines for dispute resolution programs and to evaluate the feasibility of a statewide system of grants to local dispute resolution programs. The bill also authorizes counties to establish programs, with up to 50 percent of the cost funded by a fee of no more than $3, to be included in civil filing fees. The bill was enacted as chapter 1313.

Procedures for Discipline

Senate Bill 1543, introduced by Senator Robert Presley, provides for the initial hearing of certain State Bar disciplinary matters by retired judges as referees. The bill also requires the State Bar Board of Governors to establish a complainants' grievance

panel, and provides for appointment of a discipline monitor by the Attorney General. The bill was enacted as chapter 1114.

Judicial Holidays

Assembly Bill 3484, introduced by Assembly Member Elihu Harris, operative January 1, 1989, excludes September 9, known as Admission Day, from the list of judicial holidays and adds Saturdays and the day after Thanksgiving to the list. Enacted as chapter 1398, the bill also permits courts to conduct arraignments on judicial holidays.

Eight-Person Civil Jury Study

Senate Bill 1561, introduced by Senator Robert Beverly, establishes a project in Los Angeles County beginning July 1, 1987, and ending July 1, 1989, to evaluate use of eight-person juries in municipal court civil cases. The performance of eight- and twelve-person juries will be compared as to representation of the community, verdicts, consistency, and costs. The bill was enacted as chapter 1337.

Electronic Recording: Superior Courts

Assembly Bill 825, introduced by Assembly Member Harris, provides for a county option project to determine whether electronic video or audio recording is a practical alternative to the verbatim record prepared by court reporters in superior courts. The project may include up to 11 departments allocated among Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties. The bill was enacted as chapter 373.

Court Administration

Assembly Bill 2661, introduced by Assembly Member Harris, eliminates filing fees for protective orders to restrain threats of domestic violence. The bill specifically authorizes the council to prescribe methods for electronic collection of data related to court administration, practice, and procedure. It also requires proceedings in death penalty cases to be reported using computer-aided transcription equipment. The bill was enacted as chapter 387.

Written Instructions to Jury

Assembly Bill 2748, introduced by Assembly Member Larry Stirling, requires the court to provide written instructions to the jury in civil and criminal cases if the jury so requests. The bill was enacted as chapter 1045.

Unlawful Detainer: Unnamed Tenants

Senate Bill 2076, introduced by Senator Paul Carpenter, prescribes a new procedure and form whereby residents not named in an unlawful detainer judgment may claim a right of possession. The bill requires the court to prearrange dates for hearings on such claims, the levying officer to serve claim forms and accept the completed forms from occupants. It also requires the court, when filing fees or in forma pauperis forms have been received, and the hearing date is confirmed, to serve these claims by mail on the parties. The bill was enacted as chapter 1220.

Opposition to Motion: Five-Day Service

Senate Bill 2345, introduced by Senator Bill Lockyer, requires papers opposing a motion to be filed with the court and served on each party at least five court days before the time appointed for hearing. The bill was enacted as chapter 246.

Litigation Costs; Rules

Senate Bill 654, introduced by Senator Ralph Dills, consolidates and simplifies the provisions setting forth court costs which may be recovered by the prevailing party. The bill directs the council to prescribe the procedure for recovery of costs. The bill was enacted as chapter 377.

Discovery Law Revision

Assembly Bill 169, introduced by Assembly Member Harris, enacts new comprehensive revision of civil discovery laws, permits parties to vary discovery requirements by stipulation, authorizes sanctions for abuse, and authorizes depositions to be recorded by audio or video simultaneously with stenographic means. The bill also limits the number of depositions, interrogatories, and requests for admission without an affidavit of cause. The bill was enacted as chapter 1334.

Disclosure of Experts; Discovery Revision

Assembly Bill 1334, introduced by Assembly Member Harris, establishes new procedures for the exchange of expert trial witness information, expert depositions, and discovery for physical and mental examinations. The bill was enacted as chapter 1336.

Retired Judges: Oaths

Senate Bill 2204, introduced by Senator Alan Robbins, and Senate Bill 1789, introduced by Senator Ed Davis, authorize former judges to administer oaths upon certification by the Commission on Judicial Performance, and retired judges to administer oaths generally.

Senate Bill 2204 authorizes judges to elect an actuarially-reduced retirement allowance with payment of the remaining contributions to his or her designated beneficiary. The surviving spouse would receive an allowance equal to one-half of the allowance.

Senate Bill 1789 revises court staffing provisions for various courts. The bills were enacted as chapters 1417 and 1418, respectively.

Temporary Orders for Support

Assembly Bill 4284, introduced by Assembly Member Kathy Wright, provides that orders for child support entered during the pendency of a proceeding remain in force until revoked or terminated. It also provides that a petition for separation or dissolution may not be dismissed if an order for child support has been issued and not revoked or terminated. The bill was enacted as chapter 366.

Visitation Violations

Assembly Bill 4380, introduced by Assembly Member Teresa Hughes, authorizes the court to order financial compensation for periods when a parent fails to assume the caretaker responsibility or when a parent has been thwarted by the other parent when attempting to exercise visitation or custody rights. The bill authorizes the court to order the recipient of child support to give notice when a contingency occurs relieving the parent of future child support liabilities. The bill was enacted as chapter 945.

Tax Return: Confidentiality

Assembly Bill 3782, introduced by Assembly Member Dominic Cortese, provides that in any proceeding involving child support or spousal support no party may refuse to submit copies of state and federal income tax returns to the court. If retained, the tax return shall be sealed and maintained as a confidential court record. The bill was enacted as chapter 707.

Newspaper Authenticated by Presumption

Assembly Bill 2632, introduced by Assembly Member Jack O'Connell, creates a rebuttable presumption that printed materials purporting to be a newspaper are that newspaper, for purposes of introduction as evidence. The bill was enacted as chapter 330.

Paternity Presumption

Assembly Bill 3326, introduced by Assembly Member Gwyn Moore, establishes a rebuttable presumption of paternity when the paternity index is 100 or greater. The presumption may only be rebutted by preponderance of the evidence. The bill was enacted as chapter 629.

Appellate Review: Rehearing

Senate Bill 2321, introduced by Senator Nicholas Petris, requires the Supreme Court, Courts of Appeal, and appellate departments of the superior courts, to request supplemental briefing if a decision is based on an issue not briefed by any party. If the court fails to do so, rehearing shall be ordered on petition of any party. The bill was enacted as chapter 1098.

Judicial Council: Data Records

Senate Bill 2341, introduced by Senator Lockyer, requires the council to gather data relating to civil cases in superior court including time from filing of the action to settlement, type of settlement procedure, amount of settlement or judgment, damages prayed for, collateral sources, and case categories. The bill was enacted as chapter 1207.

Trial Court Delay Reduction Act

Assembly Bill 3300, introduced by Assembly Member Willie Brown, establishes a three-year civil case exemplary delay reduction program in specified courts, to commence January 1, 1988. The bill also requires the Judicial Council to adopt standards of timely disposition for the processing and resolution of civil and criminal actions. Enacted as chapter 1335, the bill requires the council to collect, maintain, and publish statistics, report the results of the program with recommendations, and provide training and assistance.

State Funding: Fines

Assembly Bills 3786 and 3309, introduced by Assembly Member Stirling, exempt civil penalties awarded in environmental, antitrust, or consumer protection cases from the definition of "fines" for the purpose of the Trial Court Funding Act of 1985. The bills modify the definition of court operations to include necessary deputy marshals. Enacted as chapter 1268 and chapter 1269, respectively, the bills include process servers' fees in the definition of filing fees.

Tort Data

Assembly Bill 3357, introduced by Assembly Member Steve Papan, requires the Insurance Commissioner to contract with the council to provide reports analyzing specified types of tort cases. The bill was enacted as chapter 1326.

Absence of Defendant

Senate Bill 2558, introduced by Senator Robbins, authorizes the court to permit a felony defendant to be absent during the pronouncement of judgment. The bill was enacted as chapter 1222.

Gross Vehicular Manslaughter

Assembly Bill 2558, introduced by Assembly Member Jean Duffy, establishes the crime of gross vehicular manslaughter punishable by four, six, or ten years in state prison. The bill was enacted as chapter 1106.

Pornography Definition

Senate Bill 139, introduced by Senator Wadie Deddeh, changes the definition of obscene matter to

replace the requirement that obscene matter, taken as a whole, be utterly without redeeming social importance, with a requirement that the matter, taken as a whole, lacks significant literary, artistic, political, educational, or scientific value. The bill also conforms the codes to existing judicial decisions by specifying that contemporary statewide standards are to be applied with respect to harmful matter. The bill was enacted as chapter 51.

Prostitution: Agreement

Senate Bill 2169, introduced by Senator David Roberti, makes an agreement together with some act in furtherance of the agreement to engage in an act of prostitution disorderly conduct. The bill was enacted as chapter 1276.

Dismissal of Prior Felony

Assembly Bill 2049, introduced by Assembly Member Richard Katz, deletes court discretion to strike a prior serious felony conviction when imposing a sentence for a serious felony if a five-year enhancement is required for a prior conviction of a serious felony. Enacted as chapter 85, the bill abrogates *People* v. *Fritz*, 40 Cal.3d 227.

Consecutive Term in Sex Cases

Assembly Bill 2295, introduced by Assembly Member Lucy Killea, authorizes the imposition of consecutive terms for crimes if the defendant had a reasonable opportunity to reflect on and nevertheless resumed sexually assaultive behavior. Enacted as chapter 1431, the bill abrogates *People* v. *Craft*, 41 Cal.3d 554.

Victim and Witness Rights

Assembly Bill 2779, introduced by Assembly Member Charles Calderon, gives a victim or witness the right to be notified as soon as feasible that a court proceeding to which he or she has been subpoenaed will not proceed as scheduled. The bill gives a victim or witness the right to an expeditious disposition of the criminal action, and to be informed of the final disposition upon request. It also directs the Victims' Legal Resource Center to distribute materials describing the rights of victims and witnesses through local law enforcement agencies. The bill was enacted as chapter 1427.

Victim's Family Attendance at Preliminary

Senate Bill 1797, introduced by Senator Edward Royce, requires the court to grant the prosecutor's motion, subject to hearing, to allow attendance of the victim's family during the defendant's testimony unless family members are potential witnesses. The court must admonish members not to discuss the testimony. The bill was enacted as chapter 868.

Children's Representative

Assembly Bill 3941, introduced by Assembly Member Gary Condit, authorizes counties to establish a three-year pilot project for appointment by the court of a children's representative for minors under the age of fourteen in any criminal action in which child abuse or molestation by an immediate family member is alleged. Counties participating in the program shall report to the Legislature before December 31, 1988, on the interim results, and submit a final report by September 30, 1990. This measure requires counties to provide children's waiting rooms for witnesses when remodeling court structures, and encourages the provision of such facilities in existing space. The bill was enacted as chapter 976.

Child Witnesses

Assembly Bill 3319, introduced by Assembly Member Sunny Mojonnier, authorizes judges to allow other witnesses in a child sexual abuse proceeding to be examined when a child witness is temporarily away from the preliminary hearing.

Assembly Bill 3849, introduced by Assembly Member Burt Margolin, requires courts to take special care that questions addressed to children are in a form appropriate to the witness' age, and permits an objection to a question not reasonably likely to be understood by the witness. The bill also authorizes limiting the hours of a child's testimony during the preliminary hearing to the time when the child would normally be in school, and specifies an instruction to the jury that although the child may perform differently from an adult as a witness, that in itself does not mean the child is any more or less credible as a witness. The bills were enacted as chapter 273 and chapter 1051, respectively.

Preliminary Hearing Evidence

Senate Bill 1661, introduced by Senator Presley, provides that the best evidence rule does not apply at a preliminary examination. The bill was enacted as chapter 992.

Closed-Circuit Television: Cost

Assembly Bill 4396, introduced by Assembly Member Mojonnier, provides that the cost of examination by two-way closed-circuit television of minor witnesses in sexual offense proceedings be borne by the court. The bill was enacted as chapter 774.

Discussions with Jurors

Senate Bill 1936, introduced by Senator James Ellis, requires the judge in a criminal action to inform jurors of their right to discuss or not to discuss the deliberation and to inform them as to other matters. Unreasonable efforts to interview jurors without consent shall be reported to the trial judge and may be subject to sanctions. The bill was enacted as chapter 710.

Precedence: Elderly Witness

Assembly Bill 3644, introduced by Assembly Member Stirling, requires criminal actions in which a dependent adult or a person over 69 years of age is a material witness or victim be given precedence. The bill was enacted as chapter 588.

Continuances: Notice of Conflicts

Senate Bill 1923, introduced by Senator Dan McCorquodale, revises the procedure for continuance of a criminal action to require that attorneys notify the calendar clerk of each court indicating which hearing was set first when conflicting court appearances exist. The bill also authorizes superior and municipal courts of each county to adopt consistent local rules relating to this notice or waiver of notice when a continuance is sought because of a conflict between scheduled appearances in the courts of that county. The bill was enacted as chapter 1172.

Jury Instructions

Assembly Constitutional Resolution 148, introduced by Assembly Member Stirling, requests the Committee on Jury Instructions of the Los Angeles Superior Court to study alternatives to the definition of reasonable doubt set forth in Section 1096 of the Penal Code, and report to the Legislature on or before March 1, 1987. The bill was enacted as chapter 127.

Victim's Right to Attend Trial

Senate Bill 1816, introduced by Senator Davis, permits a victim or up to two members of the victim's family to be present at trial for a criminal offense unless the victim's presence would influence the content of testimony, the victim is disruptive, or the prosecution requests the removal of the victim. Upon the objection of the defendant, the victim may be required to testify first. The bill was enacted as chapter 1273.

Home Detention

Senate Bill 2469, introduced by Senator Ruben Ayala, authorizes San Bernardino and at least one other county to participate in a three-year pilot project whereby a judge may sentence persons convicted of a misdemeanor to home detention in lieu of county jail. The Board of Corrections is to monitor the project. Participating counties are to establish procedures for imposition of fees on persons sentenced to home detention to cover costs. The bill requires the Board of Corrections to report by December 31, 1988, regarding the pilot program. The bill was enacted as chapter 1500.

Appeals by the People

Assembly Bill 2287, introduced by Assembly Member Steve Peace, allows a prosecutor to appeal the imposition of an illegal sentence, and provides that the people may seek appellate review of a grant of probation by a petition for a writ of mandate or prohibition. The bill was enacted as chapter 59.

Felony Bail Hearing

Assembly Bill 3521, introduced by Assembly Member Papan, requires a hearing before any person arrested for a violent felony may be released on own recognizance, and requires the judge to state in the court's minutes the reasons for any grant or denial of a release for such a person. The bill was enacted as chapter 543.

Videotaped Testimony

Assembly Bill 3229, introduced by Assembly Member Bruce Bronzan, authorizes videotaping of testimony at preliminary hearings of developmentally disabled sex crime victims, for use at trial in certain circumstances. The bill was enacted as chapter 681.

Disposal of Exhibits

Assembly Bill 2715, introduced by Assembly Member Robert Frazee, revises procedures for disposal or destruction of exhibits in criminal actions. The bill was enacted as chapter 734.

Study of Assessments

Senate Constitutional Resolution 53, introduced by Senator Dills, requests the Legislative Analyst to study use of penalty assessments on traffic and other violations, and to report by December 31, 1987. The bill was enacted as chapter 120.

Motions to Suppress Evidence

Assembly Bill 2328, introduced by Assembly Member Stirling, provides that if a search and seizure motion to suppress evidence in felony cases was made at the preliminary hearing, a de novo superior court special hearing is generally limited to evidence presented in the preliminary hearing transcript, and to evidence which could not reasonably have been presented at the preliminary hearing. Findings of the magistrate are binding on the superior court as to evidence not affected by evidence presented at the special hearing. The bill states intent that these changes are procedural only. The bill was enacted as chapter 52.

Judicial Education on Child Sex Abuse

Assembly Bill 1985, introduced by Assembly Member Norman Waters, establishes an ongoing Judicial Council program to provide judicial training relating to the handling of child sexual abuse. The bill was enacted as chapter 792.

Child Witness Protection Act

Senate Bill 2530, introduced by Senator Petris, establishes the Child Victim-Witness Judicial Advisory Committee to study methods of establishing pilot projects and to report by October 1, 1988. The Attorney General chairs the 19-person advisory committee; four trial judges are to be appointed by the council. The study is to review dependency proceedings and the coordination of judicial and investigative processes, including law enforcement and child welfare service investigations. The bill was enacted as chapter 1282.

Trust Law: Revision

Assembly Bill 2652, introduced by Assembly Member Alister McAlister, enacts the Law Revision Commission recodification of certain decisional law and the reorganization and revision of the statutes governing trusts. The bill deletes provisions which classify trusts as voluntary and involuntary, modifies the definition of the term "trust," and substitutes the term "settlor" for "trustor." The bill was enacted as chapter 820.

Court Investigator

Assembly Bill 3327, introduced by Assembly Member Lloyd Connelly, requires a court investigator, probation officer, or domestic relations investigator to make a report and recommendation concerning each proposed guardianship, unless waived by the court. The report must be reflected in the minutes. This measure requires the county to assess the expense of the investigation to persons charged with support of the proposed ward, the guardian, or the estate of the proposed ward. The bill was enacted as chapter 1017.

Parking Penalties

Assembly Bill 942, introduced by Assembly Member Frazee, revises and recasts procedures for parking case administration, notices, and filing of complaints and substitutes "parking penalties" for "bail forfeitures." Enacted as chapter 939, the bill also authorizes the courts, issuing agencies and private vendors to process parking penalties.

Parking Offense Plea

Senate Bill 2042, introduced by Senator Diane Watson, permits a person who has received a notice of parking violation to plead not guilty in writing. The bill was enacted as chapter 631.

Dependency Review

Senate Bill 1195, introduced by Senator Presley, revises and recasts the procedures under which a minor may be declared a dependent child of the juvenile court. The bill also establishes as a separate basis for an order of dependency severe physical abuse of a child under the age of three, obviating the necessity of providing reunification services in such cases, and revises the grounds for detention of a minor. Enacted as chapter 1122, the bill establishes a Senate study commission to review child dependency issues relating to the judicial process.

Commissioner Orders for Child Support

Assembly Bill 3974, introduced by Assembly Member Wright, requires most petitions for child support filed by the district attorney to be referred to a commissioner or referee for hearing. Exemptions from this requirement may be given by the State Department of Social Services. The bill also authorizes referees to enter default orders when hearing child support matters, specifies time limits for entry of support orders, limits continuances, and requires the clerk to mail copies of orders to the parties immediately. Enacted as chapter 1263, the bill makes the district attorney's office the public agency responsible for administering wage withholding for purposes of federal law.

Information on Support Collection

Senate Bill 918, introduced by Senator Watson, requires the State Department of Social Services to publish a booklet describing the proper procedures for collection and payment of child and spousal support and to expand the information provided by its toll-free hotline. The bill also requires the district attorney to continue enforcement of support after a family ceases to receive AFDC benefits. The bill was enacted as chapter 1089.

MEASURES NOT ENACTED

Trial Court Funding Act Appropriation

Assembly Bill 19 (The Trial Court Funding Act of 1985), introduced by Assembly Member Richard Robinson, is effective but not operative pending a budget appropriation for its purposes. (Ch. 1607, Stats. of 1985)

A budget request for full funding of the act resulted in a $15 million scheduled appropriation being included in the 1986–87 Budget for a phase-in of the program. The appropriation, however, was line-item vetoed by Governor Deukmejian who sought certain court reform measures as a condition of state funding. (See SB 2087 (Beverly), as amended in Senate May 7, 1986, which contained the Governor's proposed reforms.)

Contempt Powers in Commissioners

Assembly Bill 2975, introduced by Assembly Member Wright, would have statutorily empowered municipal court commissioners to punish for contempt.

The Judicial Council opposed this measure after consideration of the case law relating to the constitutional restriction that commissioners may only perform subordinate judicial duties.

New Appellate Court Justices

Senate Bill 2257, introduced by Senator Ken Maddy, proposed creation of 23 additional Court of Appeal judgeships based on workload statistics.

C. Changes in the California Rules of Court

During 1986 the Judicial Council adopted a number of amendments to the appellate and trial court rules and the recommended standards of judicial administration designed to improve court administration and expedite court proceedings. The Supreme Court adopted amendments to rules regarding review of State Bar proceedings and appearance as counsel *pro hac vice*.

APPELLATE RULES

Clerk's Time to Estimate Cost of Transcript (Rule 5)

Rule 5(c) was amended to impose on the clerk a 30-day limit to prepare the cost estimate for the clerk's transcript.

Form of Transcripts on Appeal (Rule 9)

Rule 9(d) was amended to provide that indices to the transcripts are to appear only in the first volume of the clerk's and reporter's transcripts.

Augmentation of the Record (Rule 12)

Rule 12(a) was amended to permit a request for augmentation to be accompanied by copies of the documents to be added, and to permit the reviewing court to augment by deeming the additional documents filed.

Finality of Decision; Modification (Rule 24)

Rule 24 was amended to provide that if the date of finality falls on a holiday or other day when the clerk's office is closed, the time for granting a rehearing or modification is extended to the close of the next business day the clerk's office is open. The rule was also amended to require an order modifying an opinion to specify whether it effects a change in the judgment.

Award of Costs and Procedures for Claiming Costs (Rule 26)

Rule 26(a) was amended to require the reviewing court to specify the award or denial of costs if there is more than one notice of appeal or if the judgment of the trial court is reversed in whole or in part or is modified. Subdivision (d) was added to specify procedures for claiming costs on appeal. The procedures were deleted from the Code of Civil Procedure (Stats. 1986, ch. 377).

Transmittal of Record to Supreme Court (Rule 28)

Rule 28(b) was amended to require the clerk of the Court of Appeal to transmit the record on appeal to the Supreme Court on receipt of a copy of a petition for review or on request of the Supreme Court Clerk, whichever comes first.

Procedure for Automatic Appeal in Sterilization Cases (Rule 39.8)

Rule 39.8 was adopted to meet the requirements of legislation (Stats. 1986, ch. 1012). It governs notice of and procedure for automatic appeal from a judgment or order appointing a limited conservator authorized to consent to the sterilization of a developmentally disabled adult.

Costs of Appeal to the Superior Court (Rule 135)

Rule 135 was amended to provide procedures for claiming costs on appeal to the superior court. The procedures were deleted from the Code of Civil Procedure (Stats. 1986, ch. 377). An additional amendment clarifies that the rule applies to costs on appeal from both municipal and justice courts.

TRIAL COURT RULES AND STANDARDS

Rules Relating to Costs (Rules 203, 503, 870, 870.2, and 870.4)

In response to legislation (Stats. 1986, ch. 377), several new rules relating to costs were adopted. Rule 870 incorporates the procedures for claiming and contesting prejudgment costs. Rule 870.2 recites the procedure for claiming attorney fees under Civil Code section 1717. Rule 870.4 specifies the procedure for recovering supplemental costs in unlawful detainer proceedings. Conforming technical amendments were made to rules 203 and 503. Forms for the memorandum of costs were also approved (see section D, at p. 70).

Uniform Bail Schedules (Rule 850)

The advisory uniform bail schedules were revised in response to recent legislation affecting bail amounts, section numbers, and offenses. At the request of the Public Utilities Commission, a Uniform Public Utilities Bail Schedule was added to the rule.

Request for Secrecy of Filing Under The Attachment Law (Rule 855)

Rule 855 was adopted to require a plaintiff who requests that a file not be made public under Code of Civil Procedure section 482.050 of The Attachment Law to file a declaration under oath that the action is on a claim on which an attachment may issue.

Inclusion of Interest in Judgment (Rule 875)

Rule 875 was adopted to direct the clerk to include in the judgment any interest awarded by the court and the interest accrued since the entry of the verdict.

General Denial Form (Rule 982)

The mandatory General Denial form under rule 982(a)(13) was revised (see Chapter D, at p. 69).

Posting Notice and Waiver of Court Fees and Costs (Rule 985)

Acting on a request from the State Bar Conference of Delegates, a new subdivision (k) was added to rule 985 to require each trial court to post a notice in a prominent location in the clerk's office advising litigants of their right to request a waiver of court fees and costs. Subdivision (d) was amended to permit the presiding judge to delegate to the court clerk the power to approve an application in nondiscretionary cases. Technical amendments were made to subdivision (b).

Word-Processor Forms Experiment (Rule 1280)

Rule 1280(a) permitting the use of typewriter- or word-processor-produced family law forms was amended to preserve sufficient space for a court filing stamp in the upper right corner of the first page of a document.

Family Law Forms (Rules 1285.05, 1285.20, 1285.25, 1285.25(B), 1285.65, 1285.70, 1285.80, 1286.50, 1287.50, 1295.10, 1297.80, and 1297.82)

Several forms pertaining to family law were revised and four new forms were adopted (see chapter D, at p. 69). (Each family law form bears a rule number.)

Juvenile Court (Rules 1309, 1311, 1332, 1334, 1336, 1337, 1362, 1363, 1364, 1366, 1376, 1377, 1378, 1379, 1391, and 1392)

A number of juvenile court rules, primarily in the dependency area, were amended to incorporate legislative changes. (Stats. 1986, chs. 640, 757, 1122.) The legislation establishes a new category of dependency cases under Welfare and Institutions Code section 300(e) involving severe abuse of a child under age three. In response to legislation (Stats. 1986, ch. 386), a dependency court information sheet was approved for distribution by county officials to parents of children taken into protective custody.

Judicial Arbitration—Arbitrator Fees (Rule 1608)

Rule 1608(b) was amended to authorize payment of fees to arbitrators who by affidavit establish that they devoted substantial time to cases that were settled without an arbitration hearing. The trial court must review each fee claim and exercise discretion in whether to award a fee.

Gender Bias (Standards of Judicial Administration, Sections 1, 1.2, and 1.3)

Three sections dealing with gender bias in the court system were added to the Standards of Judicial Administration. Section 1 sets forth a judge's duty to refrain from and prevent conduct exhibiting gender or other bias in the courtroom. Section 1.2 urges courts to ensure the use of gender neutral language in local rules, forms, and other documents as they are modified or amended for other reasons. Section 1.3 urges courts to provide waiting rooms for children on court premises. These additions to the standards were adopted on the recommendations of the Judicial Council Committee on Gender Bias in the Court System. Its recommendations are discussed in detail in chapter 4, at page 13.

Adjudication of Traffic Cases (Standards of Judicial Administration, Sections 10.6 and 10.7)

Sections 10.6 and 10.7 were added to the Standards of Judicial Administration. The new sections recommend that municipal and justice courts mail courtesy notices in traffic cases and hold periodic roundtable discussions with representatives from local law enforcement agencies, the prosecution and defense bars, and other interested groups to adopt and review procedures governing the scheduling of traffic infraction trials. The goal of both standards is to minimize appearance time and costs for defendants, witnesses, and law enforcement officers in traffic proceedings.

Computer-Aided Transcription in Capital Cases (Standards of Judicial Administration, Section 11.7, repealed)

Section 11.7 of the Standards of Judicial Administration was repealed because it has been superseded by legislation (Stats. 1986, ch. 387, amending Pen. Code § 190.9).

Discretionary Child Support (Appendix to the California Rules of Court, Division VI)

In response to the requirements of the Agnos Child Support Standards Act of 1984 (Stats. 1984, ch. 1605; Civ. Code, § 4724(b)), a schedule for discretionary child support awards above the mandatory minimum was adopted as division VI of the appendix to the rules. The schedule is to be used by counties that do not have their own in setting child support above the minimum level required by the act.

OTHER RULES

Review of State Bar Proceedings (Rule 952)

The Supreme Court adopted an amendment to rule 952(c) to establish procedural requirements for a petition for review of actions by the chief executive officer of the State Bar.

Counsel Pro Hac Vice (Rule 983)

The Supreme Court amended rule 983 to require an applicant seeking permission to appear as counsel *pro hac vice* to pay to the State Bar a reasonable fee not exceeding $50 to be set by the Board of Governors.

D. Judicial Council Legal Forms

The Judicial Council approved 36 new and revised forms for statewide use in the courts during 1986. The forms were prepared and recommended for Judicial Council approval by the Judicial Council Advisory Committee on Legal Forms, a statewide committee with representation from the State Bar, the judiciary, and the court clerks' offices.

Camera-ready masters of the new and revised forms were sent to the trial courts so that each court could reproduce the forms for local use. Several legal publishers reproduce and supply the forms.

An explanation of the new forms and background on the changes in existing forms follows.

GENERAL LEGAL FORMS (Rule 982)

1. General Denial Form

The information box on the General Denial form (rule 982(a)(13)) was revised in response to legislation. (Stats. 1986, ch. 281.) Amended section 431.30 of the Code of Civil Procedure establishes special pleading requirements if the cause of action is on a claim assigned to a third party for collection. The revised instructions also clarify optional and mandatory use of the General Denial form in cases under the Economic Litigation for Municipal and Justice Courts Act (Code Civ. Proc., §§ 90–100) and in other cases (Code Civ. Proc., § 431.40).

2. In Forma Pauperis Forms

The Information Sheet on Waiver of Court Fees and Costs (rule 982(a)(A)) was revised to reflect the new poverty income guideline figures published by the United States Secretary of Health and Human Services.

FAMILY LAW FORMS

1. General Family Law Forms (Rule 1280 et seq.)

Several family law forms were revised and two new forms were adopted for mandatory use. The Temporary Restraining Orders (rule 1285.05) was revised to provide for several commonly requested orders relating to debts and insurance policies and for a temporary custody order.

In response to legislation amending Civil Code section 4701 (Stats. 1986, ch. 1409), several forms relating to child support were revised. The Application for Order and Supporting Declaration (rule 1285.20) was revised to permit request of the new orders and also to request issuance of an ex parte wage assignment if the payment of child support becomes delinquent in an amount equal to one month's payment. Technical changes were made to the Ex Parte Application for Wage Assignment for Support (rule 1285.65) and the Order Assigning Salary or Wages (rule 1285.70) in response to the legislation.

The Minimum Child Support Worksheet (rule 1285.25) and Appendix A of the Minimum Child Support Information Booklet (rule 1285.25(B)) were revised to reflect changes in the AFDC minimum basic standard of care established by the state Department of Social Services.

Recent legislation (Stats. 1986, ch. 946) permits creation of a lien with an abstract of a support judgment in lieu of using a certified copy of the judgment (Code Civ. Proc., § 697.320). A new form, Abstract of Support Judgment (rule 1285.80), was adopted for that use.

The Declaration for Default or Uncontested Dissolution or Legal Separation (rule 1286.50) was revised to permit use of the affidavit in obtaining a legal separation. (Stats. 1986, ch. 143, amending Civ. Code, § 4511.) The declaration formerly was used only for dissolutions.

Another new form, Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order (rule 1287.50), will assist women in restoring their former names, as permitted by Civil Code section 4362.

2. Summary Dissolution Forms

The mandatory form, Joint Petition for Summary Dissolution of Marriage (rule 1295.10), was revised to adjust the dollar amount of community property assets couples may have and still be eligible to use the summary dissolution procedure. Judicial Council review of these amounts is required biennially by Civil Code section 4550.

3. Child Support Forms

Two new mandatory forms were adopted to implement new Code of Civil Procedure section 640.1 (Stats. 1986, ch. 1263) which prescribes a procedure to be used in determining child support in cases brought by the district attorney under Title IV-D of the Social Security Act. The procedure is mandated by federal regulations for those counties not granted an exemption.

The Notice of Review Hearing Regarding Child Support and Recommendation of Commissioner or Referee (CCP § 640.1) (rule 1297.80) will serve as the notice of hearing and as the recommended order to the court. A judge will make the Order After Review Hearing (CCP § 640.1) (rule 1297.82) based on the recommendation.

CIVIL HARASSMENT FORMS

All the civil harassment forms were revised in the first comprehensive review of the forms since they were approved for optional use in 1979. The statute creating the injunction procedure requires the council to promulgate forms and instructions. (Code Civ. Proc., § 527.6) The language and format of the forms and instructions have been simplified to assist persons without attorneys. The revised forms are Petition for Injunction Prohibiting Harassment, Response to Petition for Injunction Prohibiting Harassment, Order to Show Cause (Harassment) and Temporary Restraining Order, Order After Hearing on Petition for Injunction Prohibiting Harassment, and Instructions for Lawsuits to Prohibit Harassment.

A new Proof of Service by Mail form was created for service of the defendant's completed response. The revised Proof of Personal Service form is to be used for service of most documents.

PROBATE FORMS

In response to 1986 legislation, the Petition for Probate (for deaths after December 31, 1984) was revised to add a reference to personal property the decedent acquired from a predeceased spouse, ensuring that notice will be given to all possible heirs. (Stats. 1986, ch. 873, amending Prob. Code, § 6402.5.) The Petition for Appointment of Conservator was also revised in response to legislation that requires a reference to several new classes of relatives who may have to receive a notice of hearing. (Stats. 1986, ch. 243, amending Prob. Code, § 1821(b).) Both petitions were approved for optional use, although local court rules may make them mandatory.

A recent appellate case requires the Declaration Under Uniform Child Custody Jurisdiction Act form to be filed in all probate guardianships of the person of a minor. (See *Guardianship of Donaldson* (1986) 178 Cal.App.3d 477, 489 (fn.6).) The declaration was revised so that it may be used in both family law and probate proceedings.

SMALL CLAIMS FORMS

The information portions of several mandatory small claims forms were revised to clarify misleading language. The council authorized use of existing supplies of the current versions of these small claims forms until December 31, 1987.

In accordance with Code of Civil Procedure section 117.41, the Information for the Plaintiff form was modified to indicate that only a corporation or other entity that is not a natural person may be represented in the small claims court by an officer, director, or employee who is not employed solely to appear in court.

The information portion of the Notice of Entry of Judgment was revised to indicate that the notice is either mailed or handed to the parties at the time of the hearing. This change clarifies the beginning of the period allotted for appealing a small claims judgment. Corresponding information sections were also revised to conform to this change. These modified information sections are on the following forms: Plaintiff's Claim and Order to Defendant, Plaintiff's Claim and Order to Defendant (Unlawful Detainer), and Information After Judgment.

MISCELLANEOUS FORMS

1. Memorandum of Costs

A Memorandum of Costs (Summary) form and a Memorandum of Costs (Worksheet) form were approved for optional use. These new forms highlight the items designated as allowable costs in new section 1033.5 of the Code of Civil Procedure. (Stats. 1986, ch. 377.) The format of the forms is designed to assist the court and litigants with the procedural requirements to recover costs. (See also Cal. Rules of Court, rules 26, 135, 870, 870.2, 870.4, 875, discussed in chapter C, at p. 66–67.)

2. Enforcement of Judgment Forms

In response to legislation (Stats. 1986, ch. 1220, amending Code Civ. Proc., § 715.010(b)), the optional Writ of Possession form was revised. (The form is also known as the Writ of Execution.) The legislation establishes a new procedure in unlawful detainer proceedings for tenants who are not named in the writ to object to the enforcement of the judgment against them. (See *Arietta* v. *Mahon* (1982) 31 Cal.3d 381.)

3. Additional Page Form and Declaration Forms

An Additional Page form was approved for optional use. It can be attached to any Judicial Council form or to any other paper filed with the court. An optional, general use Declaration form was also approved. It includes the required language for a declaration under penalty of perjury. (Code Civ. Proc., § 2015.5.) On the reverse of the form is an Attached Declaration form which may be attached to any form or other paper filed with the court.

4. Crime Victims' Compensation Pamphlet

The information statement on crime victims' compensation was revised to reflect legislative changes made to California's victim compensation program. (Stats. 1985, chs. 713, 1130, 1527.) The Judicial Council is required by Penal Code section 1191.2 to prepare the information pamphlet for probation officers to distribute to crime victims.

E. Coordination of Multicourt Civil Actions

Petitions Received in 1986

As of December 31, 1986, the Chairperson of the Judicial Council had received a total of 2,070 petitions for the coordination of civil actions since the inception of the coordination statute in 1974. One hundred eleven petitions were received by the Chairperson during 1986.

Characteristics of the 1986 Petitions

The 111 petitions received during 1986 maybe characterized as follows:

1. Included actions

The 111 petitions included 745 individual actions. Of the 745 actions, 703 were pending in the superior court and 42 were municipal court actions. None of the included actions was pending in a justice court. Sixty petitions involved only two pending actions. Twenty-one petitions included three actions, and thirty petitions included more than three actions.

2. Subject matter

The 111 petitions involved the following subject areas:

Personal injury	37
(auto 24; other 13)	
Commercial	23
Real property	17
(unlawful detainer 2; other 15)	
Construction	15
Public law	3
Fire	1
Family law	3
Other	12
TOTAL	111

3. Dispositions

Of the 111 petitions, 62 were granted, 13 were denied, 3 were withdrawn, and 2 were moot or dismissed. Thirty-one petitions were still pending as of December 31, 1986.

Statistical History

The coordination statute has been in operation for 13 years. The number of petitions filed in each calendar year since the statute's January 1, 1974, effective date are as follows:

Year	*No. of Petitions*	*Year*	*No. of Petitions*
1974	67	1981	285
1975	95	1982	270
1976	118	1983	100
1977	131	1984	89
1978	183	1985	102
1979	229	1986	111
1980	290		

The sharp decline in petitions which occurred in 1983 was due to implementation of a simpler superior court procedure in actions pending in different courts of the same county. Effective January 1, 1983, Code of Civil Procedure section 404 and rule 1520 were amended to permit any party to request transfer and consolidation of intracounty actions pending in different courts and sharing common questions of fact or law. Transfer and consolidation is accomplished by noticed motion in the superior court. Accordingly, submission of a petition to the Chairperson is no longer necessary in these actions.

Increased Complexity of Proceedings

1986 marks a dramatic increase in the number of actions included in petitions received during the year. This increase may be due to receipt of several complex petitions involving many actions and attorneys. Some of the more complex proceedings commenced in 1986 include:

"Technical Equities Cases"
(Jud. Co. No. 1991);

"Technical Equities Cases II"
(Jud. Co. No. 1992);

"Harbor Lawn Cremation Cases"
(Jud. Co. No. 2020); and

"Sunvalley Air Crash Cases"
(Jud. Co. No. 2026).

Other proceedings, commenced in prior years, have also evidenced increases in the number of coordinated actions as a result of the granting of petitions to add new actions under California Rules of Court, rule 1544. Examples of these more complex pending proceedings are:

"Neptune Society Cases"
(Jud. Co. No. 1814);

"Neptune Society Cases II"
(Jud. Co. No. 1817); and

"Jalisco Cheese Cases"
(Jud. Co. No. 1931).

The changes in the numbers of included actions since January 1, 1974, are reflected below:

Year	*No. of petitions*	*No. of included actions*
*1974–1975	162	515
1976	118	327
1977	131	284
1978	183	249
1979	229	676
1980	290	881
1981	285	825
1982	270	708
1983	100	329
1984	89	321
1985	102	358
1986	111	745

* for a two-year period

Description of Coordination Procedures

Coordination of civil actions is a procedural device used to join separate actions for all purposes. The actions must be pending in different courts and must share common questions of fact or law. The purpose of coordination is to avoid multiple trials and inconsistent results and to promote the efficient use of judicial resources. The coordination statute is contained in Code of Civil Procedure sections 404 through 404.8 and is accompanied by California Rules of Court, rules 1501 through 1550.

When a petition for coordination is received, the Chairperson of the Judicial Council assigns a judge to determine whether the included actions should be joined according to standards specified in Code of Civil Procedure section 404.1. If coordination is granted, the Chairperson assigns a judge to hear and determine the actions as required by Code of Civil Procedure section 404.3(a) and rule 1540. In selecting a site for the coordination motion and trial assignments, the convenience of parties, witnesses, and counsel is balanced and the administrative needs of the courts are considered.

Administrative Functions

As required by rule 1550, all necessary administrative functions in coordination proceedings are performed at the direction of the Chairperson of the Judicial Council by a coordination attorney in the Administrative Office of the Courts. An official file for each coordination proceeding is maintained in the Administrative Office of the Courts. The file contains all documents required to be submitted to the Chairperson of the Judicial Council under rule 1511.

F. Change of Venue in Criminal Cases

In 1986, the Administrative Office of the Courts provided administrative assistance to the trial courts in 21 criminal cases in which a change of venue motion was granted. Of the 21 cases, 18 were felonies and 3 were misdemeanors.

The duty of the Administrative Office of the Courts to provide assistance in change of venue motions is set forth in California Rules of Court, rules 840–844. The Judicial Council adopted the rules in 1972 in compliance with Penal Code section 1038.

Rule 842 provides:

> When the court in which the action is pending determines that it should be transferred pursuant to section 1033 or 1034 of the Penal Code, it shall advise the Administrative Director of the Courts of the pending transfer. Upon being advised the Director shall, in order to expedite judicial business and equalize the work of the judges, suggest a court or courts that would not be unduly burdened by the trial of the case. . . .

Selection of the court to which venue is changed ordinarily involves the following steps:

1. The motion to change venue is granted.

2. The judge who grants the motion advises the Administrative Office of the Courts of the pending transfer. The judge also relates the circumstances of the case, explains the basis for the transfer, and suggests possible appropriate sites for the trial of the case.

3. The Administrative Office of the Courts contacts presiding judges of suitable courts, including any suggested by the judge who granted the motion, to determine a court or courts which would not be unduly burdened by the trial of the case. A discussion is conducted regarding the circumstances of the case, the trial's probable length, any special security problems, and any other factors which might appropriately be considered. The relative workload of the courts and the opinion of the presiding judge regarding the ability of the court to conduct the trial are also considered.

4. The judge who granted the motion is advised of one or more courts that would not be unduly burdened by the trial of the case.

5. The judge who granted the motion conducts a hearing as required by *McGowan* v. *Superior Court* (1977) 75 Cal.App.3d 648, and determines the proper court for the trial of the case.

6. The Administrative Office of the Courts is notified of the choice and advises each of the courts previously contacted.

Although no statute or rule requires the Administrative Office of the Courts to assist the trial courts in civil cases when a change of venue motion is granted, assistance will be provided upon the request of the judge granting the motion or the presiding judge.

G. Judicial Redistricting

Since 1975 there have been major changes in the composition of municipal and justice court districts in California. Consolidations have eliminated 110 judicial districts and reduced the total number of judicial districts to 169. One hundred sixteen justice court districts were eliminated, while the number of municipal court districts rose by 10 to 90 and then was reduced to 86 when a number of districts were consolidated.

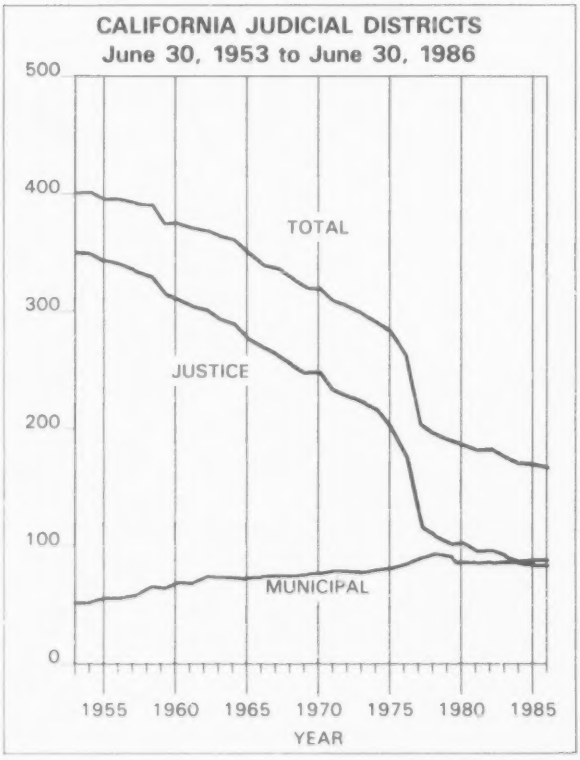
TABLE A—
CALIFORNIA JUDICIAL DISTRICTS
As of June 30, 1953 to June 30, 1986

Year	*Total judicial districts*	*No. of justice courts*	*No. of municipal courts*
1953	400	349	51
1954	400	348	52
1955	395	342	53
1956	395	341	54
1957	393	335	58
1958	390	329	61
1959	374	312	62
1960	374	307	67
1961	371	302	69
1962	370	298	72
1963	365	293	72
1964	361	288	73
1965	349	276	73
1966	339	268	71
1967	336	263	73
1968	326	253	73
1969	319	245	74
1970	319	244	75
1971	309	232	77
1972	303	226	77
1973	297	221	76
1974	291	214	77
1975	279	199	80
1976	259	175	84
1977	200	111	89
1978	197	107	90
1979	191	102	89
1980	183	100	83
1981	178	94	84
1982	179	95	84
1983	174	89	85
1984	169	84	85
1985	168	83	85
1986	169	83	86

In fiscal year 1985–86, there was no net change in the total number of justice courts. However, effective October 1, 1985, the Borden Justice Court District was established by a resolution adopted by the Madera County Board of Supervisors. This increased the total number of judicial districts by one. Effective December 26, 1985, the Hanford Justice Court District became the Hanford Municipal Court District thereby increasing the number of municipal courts by one to 86.

The number of districts served by justice courts has steadily decreased since the lower court reorganization of 1953 due to (1) redistricting by local boards of supervisors resulting in the consolidation of justice court districts into municipal courts or to form larger justice court districts, and (2) the creation of municipal courts as district populations increased to levels in excess of the 40,000 constitutional limit for justice courts.

Table A and the graph below show the number of judicial districts as of June 30, 1986, and for each year since lower court reorganization took effect.



H. Justice Court Oral Examinations

Judicial vacancies in justice courts may be filled by appointment by the board of supervisors or by special election, at the option of the board of supervisors of the county in which the court is situated.[1] Only attorneys are eligible to be justice court judges.[2] When more than three qualified candidates seek appointment to a justice court judgeship, oral examinations are required. The Chairperson of the Judicial Council designates a superior court judge as chairperson of an oral examining board, who, in turn, appoints two residents of the county to serve as additional board members. The board interviews and ranks each candidate and submits the names of the three highest ranked candidates to the board of supervisors.[3]

During 1986, oral examining boards were appointed to interview candidates for the office of judge in the Tahoe Justice Court, Placer County; the Anderson Justice Court, Shasta County; the Grass Valley Justice Court, Nevada County; and the Dunsmuir-Mt. Shasta Justice Court, Siskiyou County.

[1] Gov. Code, § 71180.3.

[2] Gov. Code, § 71601.

[3] Gov. Code, § 71601.3; Cal. Rules of Court, rules 765–770.

Chapter 2

JUDICIAL STATISTICS

A. Supreme Court

1. SUMMARY OF FILINGS AND BUSINESS TRANSACTED

Supreme Court filings during fiscal year 1985–86 totalled 4,827, 10 percent above the last year's record high of 4,370.

The court had fewer civil filings (1,999 or 41 percent) than those arising out of criminal or quasi-criminal matters (2,828 or 59 percent). There were 19 death penalty cases automatically appealed directly to the Supreme Court.[1]

The largest numerical component of the court's filings is petitions for review[2]—requests that the Supreme Court review matters already decided by the Courts of Appeal. These totalled 3,834 in 1985–86, an increase of 370 (+11 percent) over 1984–85. In addition to the filings shown in Table T-1, the Supreme Court also received and acted on 18 executive clemency applications,[3] as well as numerous motions and petitions for rehearing.

In disposing of its workload, the Supreme Court decided 144 cases on the merits by written opinion, of which 104 were appeals and 40 were original proceedings. In 1985–86, the court transacted a total of 8,228 items of business, a decrease of 1,668.

A major factor in the decrease was the reduced number of transfers (-988); they had been at an abnormally high level due to transfers between Courts of Appeal and their divisions necessitated by the creation of a new Court of Appeal and two new divisions. The 1985–86 total is within the normal range. The reduction in transfers does not represent a significant decline in the Supreme Court's workload, as the transfers between Courts of Appeal and divisions do not require a substantial amount of court time.

"Routine and miscellaneous" orders declined 1,194 (−28 percent). These orders, which are part of the administrative workload of the court, involve such diverse matters as time extensions and appointment of counsel. Many of these orders are necessitated by the court's administrative duties relating to death penalty appeals.

For the second consecutive year, the Supreme Court's workload included a record number of disciplinary proceedings against attorneys. The 22 State Bar recommendations of disbarment, the maximum discipline possible, were an increase of 10 over last year. [Table T-3].

A large percentage of the attorneys subject to disciplinary proceedings did not seek review[4] of the State Bar's recommendations and, as noted in Table T-3, a number resigned while proceedings were pending. Even if the attorney involved does not challenge the bar's recommendation, however, the Supreme Court reviews the record and makes an independent determination of the appropriate disciplinary sanction.

Should the court's preliminary review indicate a possible sanction more severe than that recommended by the State Bar, the attorney is permitted to file a response if one was not previously submitted. The court ordered disbarment in two matters filed in 1985–86 with State Bar recommendations of suspension or probation.

2. PETITIONS FOR REVIEW[5]

There were 3,834 petitions filed seeking review of matters previously decided by the Courts of Appeal, an increase of 370 (+11 percent) over the previous year. Petitions for review in appeals (2,488) accounted for 65 percent of all petitions for review.

As Table T-3A indicates, petitions for review in appeals remained below 30 percent of the total number of appeals decided by the Courts of Appeal for a fifth consecutive year (27 percent in 1983–84, and 28 percent in 1985–86, 1984–85, 1982–83 and 1981–82).

The Supreme Court agreed to review 278 cases which had previously been before the Courts of Appeal.

Historically, this number is closer to years previous to each of the two preceding years. The 1985–86 figure constitutes 7 percent of the total number of petitions for review brought before the court.

It should be noted, however, that some of the cases that the Supreme Court accepts for review do not result in written opinions by the court. Each year, for example, there are a number of matters in which review is granted and the cases are held until an opinion is issued in a "lead" case involving the same issue. At that time, the court typically will transfer the "grant and hold" matters to the Courts of Appeal for decision in light of the Supreme Court's opinion in the "lead" case. A large proportion of these cases are in the criminal field.

TABLE T-1—CALIFORNIA SUPREME COURT SUMMARY OF FILINGS

Fiscal Years 1976–77 through 1985–86

Fiscal year	Total filings	Petitions for review in cases previously decided by Courts of Appeal [a]							
		Total [a]	Appeals		Original proceedings		Direct appeals	Original proceedings	
			Civil	Criminal	Civil	Criminal		Civil	Criminal
					NUMBER				
1976–77	3,665	2,927	1,230	1,033	341	323	27	235	476
1977–78	3,881	3,140	1,186	1,170	382	402	3	272	466
1978–79	3,612	3,006	812	1,100	615	479	15	213	378
1979–80	3,858	[b] 3,183	944	1,100	[b] 700	439	22	215	438
1980–81	3,864	3,179	925	1,132	657	465	27	195	463
1981–82	4,056	[c] 3,338	921	1,148	678	591	43	204	471
1982–83	3,856	3,205	942	1,050	633	580	34	206	411
1983–84	4,025	3,244	1,100	1,071	623	450	34	209	538
1984–85	4,370	3,464	1,020	1,203	717	524	24	167	715
1985–86	4,827	3,834	1,044	1,444	786	560	19	169	805
					PERCENT CHANGE FROM PRIOR YEAR				
1976–77	−1	1	−<1	−4	9	20	29	19	−20
1977–78	6	7	−4	13	12	24	−89	16	−2
1978–79	−7	−4	−32	−6	61	19	400	−22	−19
1979–80	7	6	16	0	14	−8	47	1	16
1980–81	<1	−<1	−2	3	−6	6	23	−9	6
1981–82	5	5	−<1	1	3	27	37	5	2
1982–83	−5	−4	2	−9	−7	−2	−21	1	−13
1983–84	4	1	17	2	−2	−22	–	1	31
1984–85	9	7	−7	12	15	16	−29	−20	33
1985–86	10	11	2	20	10	7	−21	1	13
					PERCENT [d]				
1976–77	100	80	34	28	9	9	1	6	13
1977–78	100	81	31	30	10	10	<1	7	12
1978–79	100	83	22	30	17	13	<1	6	10
1979–80	100	83	24	29	18	11	1	6	11
1980–81	100	82	24	29	17	12	1	5	12
1981–82	100	82	23	28	17	15	1	5	12
1982–83	100	83	24	27	16	15	1	5	11
1983–84	100	81	27	27	15	11	1	5	13
1984–85	100	79	23	28	16	12	1	4	16
1985–86	100	79	22	30	16	12	<1	4	17

[a] A petition for review in the Supreme Court was formerly called a petition for hearing. The name was legally changed by Proposition 32, which took effect on May 6, 1985. Prior to 1978–79, a change in the method of counting petitions for hearing inadvertently introduced a change in definition. Petitions for hearing in 1978–79 and subsequent years are correct. Data reported for prior years may not, therefore, be fully comparable to the data for 1978–79 and subsequent years.

[b] Three petitions were withdrawn after filing.

[c] Since 1981–82, based on a count of petitions filed. Count in prior years was based on the record of those disposed of during the fiscal year because of the short time between filing and action upon a petition (see Cal. Rules of Court, rule 28(a) and (e)).

[d] Parts may not add to total because of rounding.

FIGURE 1—CALIFORNIA SUPREME COURT FILINGS
Fiscal Years 1976–77 through 1985–86

SOURCE: TABLE T-1

TABLE T-2—CALIFORNIA SUPREME COURT BUSINESS TRANSACTED
Fiscal Years 1976–77 through 1985–86 [a]

Year	Total business transacted	Total written opinion	Appeals		Original proceedings [c]		Petitions for review [d]		Motions [e] denied or granted	Rehearings		Orders [f]			
			Written opinion	Without opinion [b]	Written opinion	Without opinion	Granted	Denied		Granted	Denied	Transfers and retransfers [g]	Alternative writs or orders to show cause	Routine and miscellaneous	Executive clemency applications [h]
							NUMBER								
1976–77	6,065	144	85	6	59	550	231	2,696	113	0	69	258	59	1,885	54
1977–78	6,168	130	88	2	42	595	273	2,867	118	1	61	213	87	1,770	51
1978–79	6,423	187	123	1	64	525	216	2,790	148	3	82	185	59	2,109	118
1979–80	6,637	140	100	32	40	503	217	2,963	179	0	72	220	44	2,250	17
1980–81	7,208	114	86	14	28	523	267	2,912	264	0	62	171	40	2,821	20
1981–82	7,735	123	77	6	46	514	280	3,086	40	0	57	426	53	3,132	18
1982–83	9,464	133	97	1	36	427	286	2,980	47	2	55	[i] 1,719	61	3,688	65
1983–84	10,420	126	93	9	33	585	318	3,003	51	1	43	1,933	60	4,221	70
1984–85	9,896	125	78	3	47	716	318	2,966	56	0	28	1,286	49	4,270	79
1985–86	8,228	144	104	11	40	789	278	3,450	73	4	41	[i] 298	46	3,076	18
							PERCENT CHANGE FROM PRIOR YEAR								
1976–77	<1	−25	−24	[j]	−25	−25	1	1	−9	[j]	−17	2	−3	14	42
1977–78	2	−10	4	[j]	−29	8	18	6	4	[j]	−12	−17	47	−6	−6
1978–79	4	44	40	[j]	52	−12	−21	−3	25	[j]	34	−13	−32	19	131
1979–80	3	−25	−19	[j]	−38	−4	<1	6	21	[j]	−12	19	−25	7	−86
1980–81	9	−19	−14	−56	−30	4	23	−2	47	[j]	−14	−22	−9	25	[j]
1981–82	7	8	−10	[j]	64	−2	3	6	−85	[j]	−8	149	32	11	[j]
1982–83	22	8	26	[j]	−22	−17	2	−3	18	[j]	−4	304	15	18	[j]
1983–84	10	−5	−4	[j]	−8	37	11	1	9	[j]	−22	12	−2	14	8
1984–85	−5	−1	−16	[j]	42	22	0	−1	10	[j]	−35	−33	−18	1	13
1985–86	−17	15	33	[j]	−15	10	−13	16	30	[j]	46	−77	−6	−28	−77

[a] See note a, Table T-1, concerning a possible discontinuity in the data.

[b] E.g., by dismissal, affirmance or reversal on stipulation, motion, "transfer after hold." "Transfer after hold" cases involve an issue the Supreme Court decided in another "lead" case. After the "lead" case is decided, cases involving the same issue are frequently transferred to the Courts of Appeal for decision in light of the "lead" case. The number of such cases was unusually large in 1979–80 because of the large number of cases involving the same issue as that in *People* v. *Sage* (1980) 26 Cal.3d 498, modified 27 Cal.3d 144a.

[c] Includes those filed initially in the Supreme Court, and those previously decided by the Courts of Appeal but transferred to the Supreme Court on petition for hearing or on its own motion.

[d] A petition for review in the Supreme Court was formerly called a petition for hearing. The name was legally changed by Proposition 32, which took effect on May 6, 1985.

[e] Excluding granted motions to dismiss reported under appeals.

[f] Not reported elsewhere.

[g] "Transfers and retransfers" include: *transfers*, which are orders transferring pending causes from one Court of Appeal district to another or between two divisions of the same district (usually issued to balance workload), and orders transferring original proceedings filed in the Supreme Court to the Court of Appeal; and *retransfers*, which are orders issued at the time hearing is granted returning the cause to the Court of Appeal for a new decision by that court.

[h] Cal. Const., art. V, § 8.

[i] The increase in 1982–83 was due primarily to the transfer of cases filed in the newly created but dormant Sixth Appellate District to the First Appellate District and the transfer from existing divisions to the newly created divisions in the First, Second and Fourth Appellate Districts. Transfers began decreasing with the appointment of judges in the Sixth Appellate District, which began operating on November 19, 1984.

[j] Percentage was not computed where base figure was less than 25.

3. ORIGINAL PROCEEDINGS

Filings of original proceedings concerning criminal matters increased by 90 (+13 percent) in 1985–86 while those concerning civil matters were almost unchanged (+2 or 1 percent).

Original writs impose a substantial workload on the court, since each matter filed must be evaluated to determine if it presents a question of substantial merit. A significant number are found to be sufficiently meritorious to require a full hearing, which the Supreme Court may direct to be held in a lower court.[6]

Unlike the Courts of Appeal, the Supreme Court classifies original proceedings according to the nature of the underlying controversy. Thus, a proceeding dealing with a criminal case as a "criminal original proceeding" even though the issue is raised by mandamus or prohibition, historically considered civil writs. Similarly, a proceeding in which criminal law principles are applicable to a juvenile case also would be counted as "criminal."

[1] Direct appeals to the Supreme Court are required in those criminal cases in which the in which the judgment of death has been pronounced. (Cal. Const., art. VI, § 11.) In all such cases, the appeal comes to the court automatically. (Pen. Code, § 1239, subd. (b).) The appeal is "filed" when the record on appeal is received in the Supreme Court.

[2] A "petition for review" in the Supreme Court was previously called a "petition for hearing." The name was changed to reflect legal changes made by Proposition 32, a constitutional amendment approved by the voters in the November 1984 general election. Proposition 32 took effect May 6, 1985.

[3] These applications originate with the Board of Prison Terms or the Governor when clemency is recommended for a person with two or more felony convictions. (Cal. Const., art. V, § 8; Pen. Code, § 4851.)

[4] When an attorney files a petition for a writ of review in the Supreme Court, the disciplinary matter is docketed as a civil original proceeding, and the case is reflected both in the summary of filings table and, when decided, in the business transacted table.

[5] See footnote 2 above.

[6] See Table T-2, "Transfers and retransfers" and "Alternative writs or orders to show cause."

TABLE T-3—CALIFORNIA SUPREME COURT ATTORNEY DISCIPLINARY PROCEEDINGS FILED

Fiscal Years 1976–77 through 1985–86

	1976–77	*1977–78*	*1978–79*	*1979–80*	*1980–81*	*1981–82*	*1982–83*	*1983–84*	*1984–85*	*1985–86*
Record of conviction of crime filed										
—Suspension ordered because offense involved moral turpitude	24	6	30	14	30	10	32	28	32	33
—Referred to State Bar for determination whether offenses involved moral turpitude	8	3	15	8	10	6	12	14	28	38
State Bar recommendations of suspension or probation	55	15	27	34	57	60	38	52	74	70
State Bar recommendations of disbarment	4	9	3	4	10	7	8	6	12	22
State Bar filing without specific recommendation [a]	1	14	7	10	9	8	11	8	10	4
Resignation while disciplinary proceedings pending	10	12	7	10	7	16	12	8	24	30
Petitions for reinstatement	1	1	1	2	1	1	0	2	1	2
Accusation filings [b]	1	1	0	6	0	0	0	0	0	0
Total filings	104	61	90	88	124	108	113	118	181	199

[a] Or recommendation not noted on docket.

[b] Accusations seeking independent review by the Supreme Court without a prior recommendation now filed as disciplinary proceedings.

TABLE T-4—CALIFORNIA SUPREME COURT RELATIONSHIP BETWEEN PETITIONS FOR REVIEW IN APPEALS AND APPEALS DECIDED BY OPINION IN COURTS OF APPEAL

Fiscal Years 1976–77 through 1985–86

	Appeals decided by written opinion in Courts of Appeal	*Petitions for review in appeals* [a]	*Percent*
1976–77	5,626	2,263	40
1977–78	5,686	2,356	41
1978–79	5,750	1,912	33
1979–80	6,175	2,044	33
1980–81	6,633	2,057	31
1981–82	7,280	2,069	28
1982–83	7,232	1,992	28
1983–84	7,954	2,171	27
1984–85	8,051	2,223	28
1985–86	8,814	2,488	28

[a] A petition for review in the Supreme Court was formerly called a petition for hearing. The name was legally changed by Proposition 32, which took effect on May 6, 1985. See notes a and c, Table T-1, concerning a possible discontinuity in the data and the source of "Petitions for Review in Appeals."

TABLE T-5—CALIFORNIA SUPREME COURT PETITIONS FOR REVIEW IN SUPREME COURT—NUMBER DECIDED, GRANTED AND PERCENT GRANTED [a]

Fiscal Years 1976–77 through 1985–86 [b]

	1976–77	*1977–78*	*1978–79*	*1979–80*	*1980–81*	*1981–82*	*1982–83*	*1983–84*	*1984–85*	*1985–86*
Total decided	2,927	3,140	3,006	[c] 3,183	3,179	3,366	3,266	3,321	3,284	3,728
Granted	231	273	216	217	267	280	286	318	318	278
Percent granted	8	9	7	7	8	8	9	10	10	7

[a] A petition for review in the Supreme Court was formerly called a petition for hearing. The name was legally changed by Proposition 32, which took effect on May 6, 1985.
[b] See note a, Table T-1, concerning a possible discontinuity in the data.
[c] Three petitions were withdrawn.

TABLE T-6—CALIFORNIA SUPREME COURT PETITIONS FOR REVIEW GRANTED AND DENIED BY TYPE OF PROCEEDING [a]

Fiscal Years 1984–85 and 1985–86

	1984–85				*1985–86*			
	Total	*Granted*			*Total*	*Granted*		
Type of Proceeding	*Decided*	*No.*	*%*	*Denied*	*Decided*	*No.*	*%*	*Denied*
Total	3,284	318	10	2,966	3,728	278	7	3,450
Civil appeals	955	90	9	865	991	69	7	922
Criminal appeals	1,127	104	9	1,023	1,346	99	7	1,247
Civil original proceedings	710	63	9	647	876	69	8	807
Criminal original proceedings	492	61	12	431	515	41	8	474

[a] A petition for review in the Supreme Court was formerly called a petition for hearing. The name was legally changed by Proposition 32, which took effect on May 6, 1985.